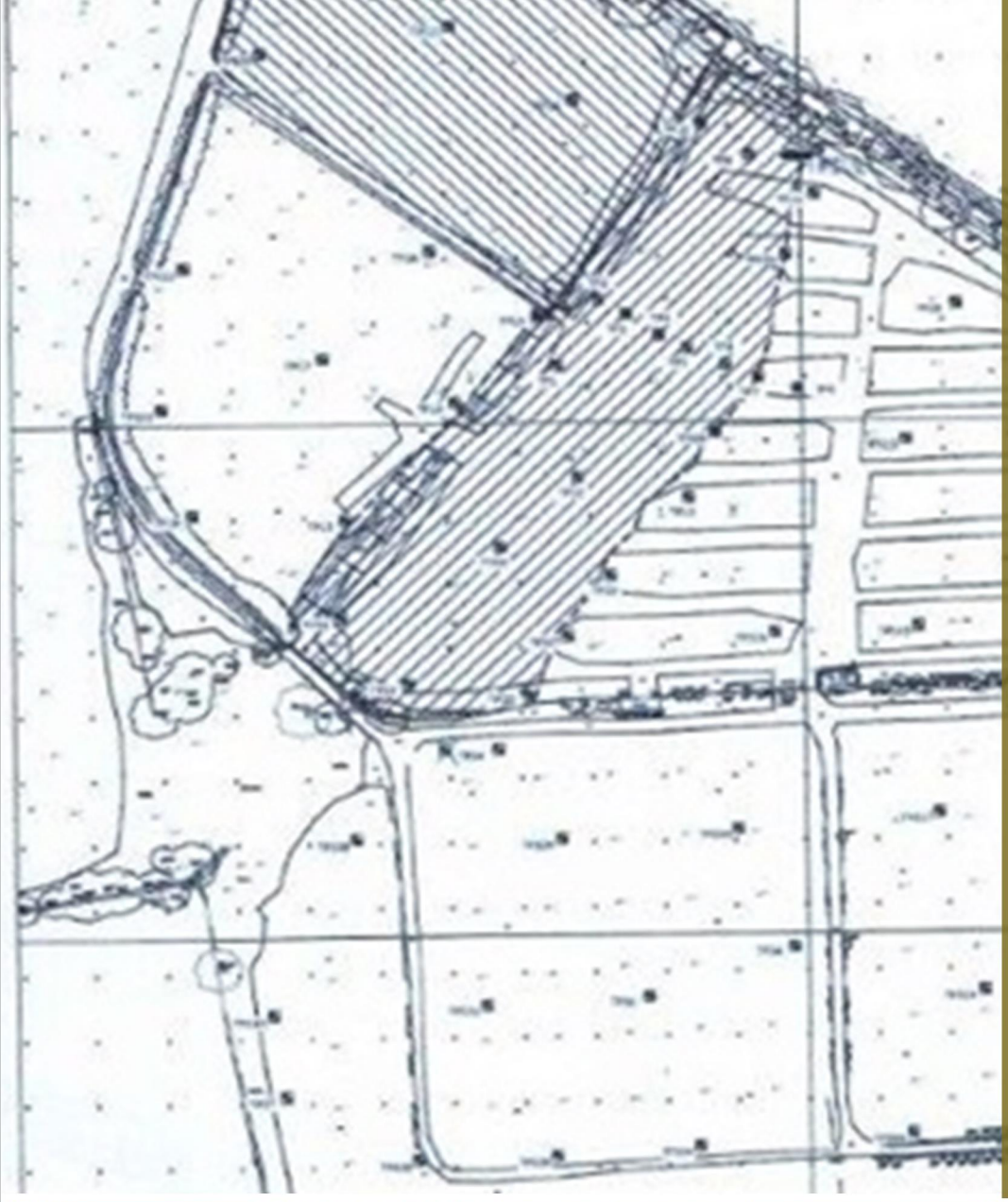

Kent Minerals and Waste Local Plan






Safeguarding Supplementary Planning Document

Draft September 2016

Kent County Council
kent.gov.uk

CONTENTS

1. Introduction

1.1 This document is a 'Supplementary Planning Document' (SPD) that provides guidance on how the policies on mineral and waste infrastructure safeguarding as set out in the adopted Kent Minerals and Waste Local Plan (Kent MWLP) will be implemented in Kent. It provides guidance to local planning authorities and developers/applicants on the procedures to be followed when development other than mineral or waste management facilities, including local plan allocations are proposed to be located within or in close proximity to safeguarded areas or safeguarded mineral or waste infrastructure assets.

The SPD is structured as follows:-

- The importance of Mineral and Waste Management Resources – Section 2
- What is safeguarded – Section 3
- the type and scope of assessment information required by the County Council to be included in proposals for development that may affect safeguarded areas and safeguarded infrastructure – Section 4
- The Safeguarding Procedure – Section 4
- Monitoring – Section 6
- Kent MWLP Safeguarding Policies – Appendix 1
- Kent MWLP Safeguarding Policies – summary of key provisions – Appendix 2

1.2 Safeguarding is the responsibility of all planning authorities, not just those responsible for determining minerals and waste management planning applications and plan making.

1.3 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.

1.4 Safeguarding is about long-term conservation of resources and assets, throughout and *beyond* the period of the Development Plan. It is an important aspect in delivering sustainable development. For the purposes of this document, safeguarding includes Mineral Safeguarding Areas as defined in the Kent MWLP and minerals and waste Safeguarding Infrastructure

1.5 The Development Plan for the purposes of determining planning applications and plan making is the Kent MWLP and the relevant District/Borough Local Plan. The Development Plan includes the Kent Minerals and Waste Local Plan including the suite of policies that provide for safeguarding of mineral resources and waste and minerals infrastructure (those relevant to safeguarding are reproduced in Appendix 1 with their key requirements summarised in Appendix 2).

1.6 This guidance will apply to development management decisions by both the County Council and the relevant Local Planning Authority (LPA) i.e. Kent's twelve borough and district planning authorities and the Ebbsfleet Development Corporation. The determining authority for the majority of planning applications in Kent will be the LPA[1]. This guidance is intended to assist both the determining authority and prospective applicants on the preparation and consideration of non-minerals and waste proposals located within or in close proximity to safeguarded areas and assets.

1.7 In accordance with the National Planning Policy Framework (NPPF), this SPD is required in order to help applicants make successful planning applications. It does not add unnecessary financial burdens on development and is an important aspect in the delivery of sustainable development[2].

1.8 The preparation of this draft document has been undertaken in line with the relevant statutory requirements[3], national guidance[4] and the County Council's Statement of Community Involvement (SCI). It does not conflict with the provisions of the adopted Kent MWLP or introduce new policies.

1.9 Once adopted, this guidance will be a material consideration in relevant planning decisions. It will act in support of the adopted Kent MWLP, which forms part of the statutory development plan for Kent, together with the adopted Local Plans prepared by the twelve Kent district and borough planning authorities and any relevant Neighbourhood Plans prepared by local communities.

[1] N.B. Proposals for Nationally Significant Infrastructure Projects are determined by the Secretary of State.

[2] DCLG (March 2012) National Planning Policy Framework, para.153.

[3] Regulations 8 & 10-16 of the Town and Country Planning (Local Planning) (England) Regulations 2012

[4] DCLG (updated March 2015) Planning Practice Guidance on Local Plans, para. 28

2. The Importance of Minerals and Waste Management Resources

2.1 Minerals are essential to support sustainable economic growth and our quality of life. They are the raw materials for our construction industry and play a key role in food, pharmaceutical and manufacturing industries. Infrastructure such as wharves, rail depots and processing plant is essential for the steady and adequate supply of minerals. Primary minerals can only be worked where they naturally occur, and wharves have locational requirements as they need access to water. Figure 1 shows the flows from the raw mineral resources to the areas of the economy that these products are needed.

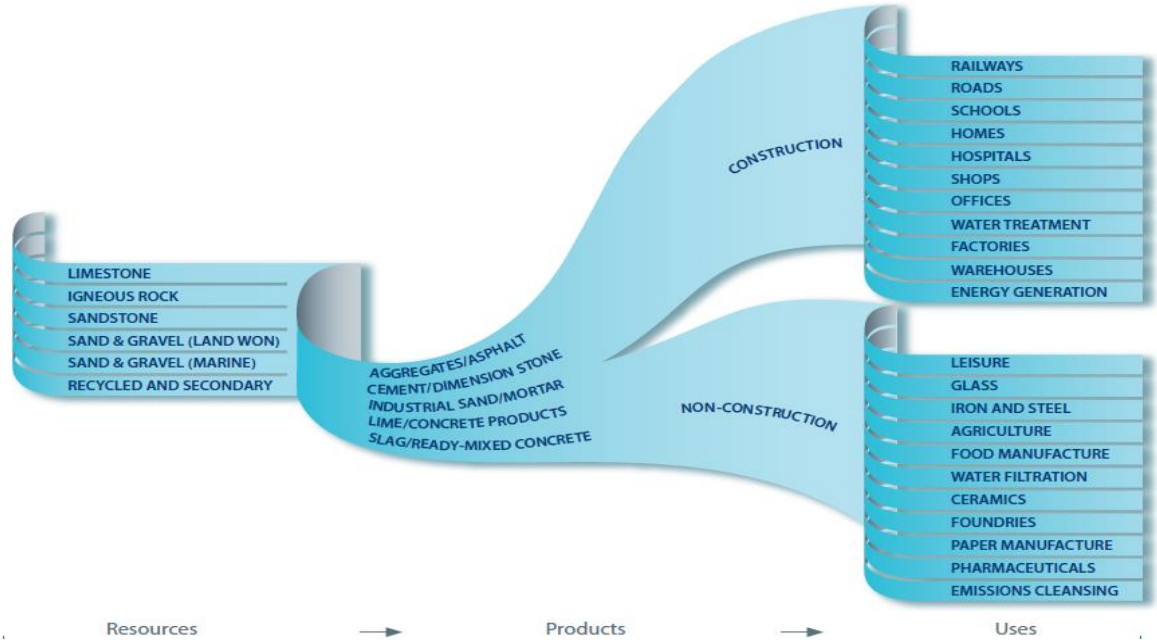

Figure 1 – Extraction to final use flow
http://www.mineralproducts.org/documents/Mineral_Products_Industry_At_A_Glance_2016.pdf

2.2 Figure 2 illustrates the quantities required to be sourced by the minerals industry to meet the requirements of sustainable communities and the economy.

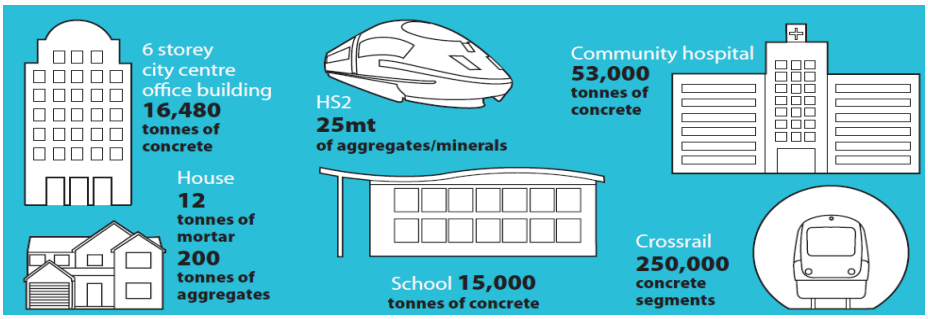

Figure 2 – Amount of mineral resources required per type of construction

http://www.mineralproducts.org/documents/Mineral_Products_Industry_At_A_Glance_2016.pdf

2.3 Notwithstanding the importance of minerals supply, waste management infrastructure is essential to enable sustainable management of waste and these facilities are similarly safeguarded by the Kent MWLP

2.4 Despite their obvious importance mineral resources can be (and have been) sterilised through non-mineral development being constructed over them, rendering the minerals beneath or in close proximity to the development unavailable for extraction for future generations. This is diagrammatically illustrated in Figure 3

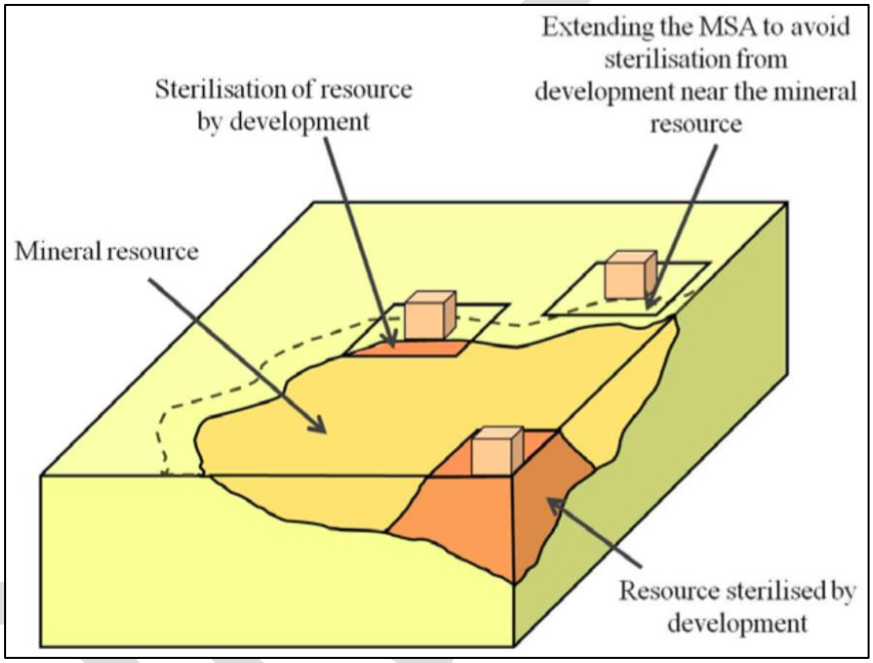

Figure 3 The sterilisation of mineral resource by surface development[5]

2.5 The operation of minerals and waste infrastructure can also be constrained by inappropriate development, such as that sensitive to noise, dust and vibration, being located on or in proximity to a site. Examples of this could include housing or some commercial activities.

3. Minerals and Waste Safeguarding in Kent

What is safeguarded in Kent?

3.1 As set out in the policies of the Kent MWLP, the following are safeguarded from non-minerals and waste development in Kent:

- Economic mineral resources: brickearth, chalk, sharp sand and gravel, soft sand (including silica sand), ragstone and building stone, as shown on the Mineral Safeguarding Area (MSA) adopted policies maps;
- Mineral haul roads;
- Existing, planned and potential wharves and rail transport infrastructure; Existing, planned and potential other mineral plant infrastructure;
- Existing waste management facilities with permanent planning permission; and
- Minerals Sites Plan and Waste Sites Plan allocations.

Mineral Resources

3.2 National policy[6] requires that LPA's should not normally permit other development proposals in mineral safeguarding areas where they might constrain potential future use for these purposes. In two-tier authority areas such as Kent, MSAs should be included on the Policies Maps of the Development Plan maintained by the district and borough councils.

Mineral Safeguarding Areas

3.3 Kent MWLP Policy CSM5 identifies the areas in which safeguarding applies to primary land-won mineral resources in Kent. The MSAs cover the known locations of specific mineral resources that are, or may in future, be of sufficient economic value to warrant protection for future generations. The boundaries of the adopted MSAs for each district and borough authority area in Kent are set out in the Policies Maps in Chapter 9 of the Kent MWLP.

3.4 The purpose of the MSA safeguarding designations is to ensure that mineral resources are properly considered in planning decisions for non-mineral development proposals, in order to prevent unnecessary sterilisation of Kent's potentially economic minerals assets. There is no presumption that the mineral present in these areas will be extracted, or that these areas would considered acceptable for mineral extraction works.

3.5 The Kent MSAs are based on the mapped mineral resource prepared by British Geological Survey (BGS). For practical reasons the Kent MSAs do not include urban settlement areas and land allocated for built development in adopted Local Plans. However, the County Council would be supportive of any viable

[6] Reproduced from 'Mineral safeguarding in England: good practice advice', BGS, 2011

[6] DCLG (2012) National Planning Policy Framework, para.144 indent 7.

opportunities for extraction of minerals prior to development in these areas.

3.6 The coverage of the MSA designations will be reviewed by the County Council on an annual basis.

Mineral Consultation Areas

3.7 These cover the same areas as MSAs, plus an additional area around the mineral reserves of the allocated Strategic Site for Minerals (Kent MWLP Policy CSM 3). The Mineral Consultation Area (MCA) designations ensure that consultation takes place between county and district/borough planning authorities and the Ebbsfleet Development Corporation where mineral resources could be compromised by non-minerals development.

Existing and Allocated Mineral Sites

3.8 Policy CSM 5 also applies to mineral resources at:

- existing sites for mineral working in Kent, including those sites which have planning permission but are not yet active, and
- Kent Mineral Sites Plan allocations for mineral working

3.9 The existing sites at the time of Plan preparation are listed in Appendix C of the Kent MWLP; this list is updated each year in Kent Minerals and Waste Annual Monitoring Report (AMR)[7] produced by the County Council. The safeguarded area applies up to the site boundary, not purely the extraction area. Policy CSM 5 will apply to the areas allocated for mineral extraction in the Kent Mineral Sites Plan when this is adopted. The status of these sites will be monitored annually.

Infrastructure

3.10 Kent MWLP policies CSM 6, CSM 7 and CSW 16 apply safeguarding to all existing, planned and potential minerals and waste infrastructure sites in the county, such sites host various facilities including the following:

- Waste management
- Secondary and recycled aggregate processing
- Minerals processing e.g. concrete batching
- Minerals wharves
- Railheads used to transport waste and minerals

3.11 The policies also apply safeguarding to land **within 250m of these sites**, as non minerals and waste developments which are sensitive to noise, dust, lighting and vibration may be adversely affected by minerals and waste activities which can in turn lead to mitigation causing constraints to be placed on operations.

3.12 Policy DM 8: *Safeguarding Minerals Management, Transportation Production & Waste Management* Facilities sets out the circumstances when non minerals and waste developments development may be permitted that would be

[7] Kent Minerals and Waste Annual Monitoring Reports are available online from: http://www.kent.gov.uk/mwlp

incompatible with safeguarded infrastructure. This includes ensuring that where existing minerals and waste capacity is lost, a replacement facility is available and suitable that provides at least an equivalent capacity to that which it is replacing.

Minerals Management and Transportation Infrastructure

3.13 National policy requires Local Plans to safeguard existing, planned and potential minerals transport, processing and manufacturing infrastructure[8]. Development proposed on or in proximity to these facilities could result in the loss of, or constraints applied to, current or future operations.

3.14 Minerals infrastructure is essential for the transport of minerals into and out of the County as well as for the recycling and/or processing of minerals into products.

3.15 In particular, Kent's wharves receive a range of construction aggregates from mainland Europe, as well as Marine Dredged Aggregates (MDA) and imported recycled and secondary materials. Minerals can also be imported and exported via Kent's railheads, lessening the impact on the highway network. The production of secondary and recycled aggregates is an important component of overall mineral supply and provides a sustainable replacement for primary land-won sharp sand and gravel.

3.16 Safeguarded Wharves and Rail Depots (Policy CSM 6) are shown in Figure 13: Minerals Key Diagram of the Kent MWLP and their site boundaries are shown in Chapter 9: Adopted Policies Maps of the Kent MWLP.

3.17 Policy CSM 7 safeguards the numerous existing, planned and potential other mineral plant infrastructure facilities in Kent and their capacity. A list of the permitted mineral plant infrastructure sites are updated and published each year in the Annual Monitoring Report.

3.18 Policy DM 8 sets out when development can be considered exempt from the safeguarding requirements.

Waste Management Facilities

3.19 It is important to ensure that sufficient capacity exists for Kent to manage its waste arisings and future needs sustainably, and to maintain overall net self-sufficiency in waste management in accordance with the waste strategy of the Kent MWLP.

3.20 National policy on waste requires existing waste management capacity to be safeguarded; the likely impact of proposed, non-waste related development on existing waste management facilities and on sites allocated for waste management should be acceptable without prejudicing the efficient operation of

[8] DCLG (2012) National Planning Policy Framework, para.143 indent 4.

such facilities, or the implementation of the waste hierarchy[9]. Nearby non-waste developments can also impact the operation of existing sites or the viability of planned sites.

3.21 Protection for waste management facilities with permanent planning permission is provided by Policy CSW 16: *Safeguarding of Existing Waste Management Facilities*. This policy safeguards sites that have permanent planning permission for waste management, or are allocated in the Waste Sites Plan (once adopted). A list of the waste management sites with permanent planning permission are updated and published each year in the Annual Monitoring Report.

4. Proposals for Non-Minerals and Waste Development in Safeguarded Areas – Information Requirements

4.1 This section sets out the Information Requirements to accompany planning applications or submissions for local plan allocations for Non-Minerals Proposals in Minerals Safeguarding Areas (MSA).

Kent MWLP Policy CSM5 *Land-won Mineral Safeguarding*

4.2 Kent MWLP Policy CSM5 identifies the areas and assets that are safeguarded. Policy DM 7 *Safeguarding Mineral Resources* sets out the circumstances when non-minerals development may be considered acceptable at a location within a MSA.

4.3 A proposal for non-minerals development in a MSA is the trigger for an assessment process of the potential effects of the development on the safeguarded minerals resource.

4.4 For the purposes of this SPD, these circumstances can be divided into two main categories:

- Development Excluded from Mineral Safeguarding
- Development Potentially Incompatible with Mineral Safeguarding

This is considered further below.

Development Excluded from Mineral Safeguarding

4.5 Proposals that consist of developments considered acceptable or exempt within MSAs under Policy DM 7 clauses 4, 6 & 7 are as follows:

4. the development is of a temporary nature that can be completed and the site returned to a condition that does not prevent mineral extraction within the timescale that the mineral is likely to be needed; or

[9] DCLG (2014) National Planning Policy on Waste, para.8 clause 1.

6. *it is exempt from mineral safeguarding policy, namely: householder applications, infill development of a minor nature in existing built up areas, advertisement applications, reserved matters applications, minor extensions and changes of use and buildings, minor works, non-material amendments to current planning permissions; or*

7. *it constitutes development on a site allocated in the adopted development plan.*

4.6 Proposals for potentially sterilising mineral developments should be accompanied by information demonstrating that they are exempt from the presumption to safeguard. This will indicate to the relevant district/ borough authority that the presence of the safeguarded mineral resources or sites has been acknowledged and that the development is in conformity with Kent MWLP Policy CSM 5 and Policy DM 7.

4.7 The County Council need not be consulted on these types of developments. If there is any uncertainty the district and borough planning authority will discuss and agree the approach to be taken with the County Council.

Development Potentially Incompatible with Mineral Safeguarding

4.8 Planning permission should only be granted for developments that could potentially sterilise resources in MSAs, if the criteria in Policy DM 7 are met, they are as follows:

1. *the mineral is not of economic value or does not exist; or*

2. *that extraction of the mineral would not be viable or practicable; or*

3. *the mineral can be extracted satisfactorily, having regard to Policy DM 9, prior to the non-minerals development taking place without adversely affecting the viability or deliverability of the non-minerals development; or*

5. *material considerations indicate that the need for the development overrides the presumption for mineral safeguarding such that sterilisation of the mineral can be permitted following the exploration of opportunities for prior extraction;*

4.9 Where an applicant seeks to rely on an exemption from the safeguarding provisions, then it will be necessary for the proposal to be accompanied by a 'Minerals Assessment'.

Minerals Assessments – General elements to be addressed

4.10 While the Kent MSAs are based on the British Geological Society (BGS) information of where minerals may occur, the practicability and economic viability of extraction will need to be determined by a more detailed '**Minerals Assessment'** that demonstrates to the satisfaction of both the County Council and the relevant district/ borough authority that the mineral resource has been adequately considered and Policy DM 7 has been complied with, reflecting the requirement in the NPPF[10] that development proposals in MSAs that might constrain potential future minerals use should not normally be permitted. The roles of various organisations with regard to minerals assessments are set out in Table 1 below:

Table 1: Organistional Roles in Mineral safeguarding

Applicants/developers	When compiling a planning application, the applicant should consult the safeguarding maps within the Kent Minerals and Waste Local Plan, as well as Policy DM 7, to ascertain whether a Minerals Assessment is required. If so, then a Minerals Assessment should be undertaken and submitted as part of the application to the relevant authority
District/Borough Councils within Kent	Any applications which are within a MSA, and do not meet the exemptions listed in Policy DM 7 will need to be accompanied by a minerals assessment. Minerals assessments will also need to be prepared by a local authority when they are producing sites plans. Ideally this should take place between the call for sites and the preferred options stages, on any sites which are within MSA's and do not meet the exemptions listed in Policy DM 7.
Kent County Council	The County Council will offer comments on a planning application which has minerals or waste safeguarding implications. When determining applications for Regulation 3 proposals the County Council will also need to consider any mineral safeguarding implications.

4.11 It is not considered to be appropriate to apply a size threshold for proposals (other than those of exempt development under Policy DM 7 clause 6) that require a Minerals Assessment, or set out requirements for different levels of assessment in proportion to the proposed development. This is because a small development in a MSA still has the potential to sterilise a large area of mineral resource.

[10] NPPF Paragraph 144, bullet 7. Bullet 1 also stresses that '*In determining planning applications local planning authorities should give great weight to the benefits of mineral extraction, including to the economy.*'

4.12 Pre-application discussions between the promoter/applicant of a non-minerals development in an MSA/MCA and the relevant district/ borough authority, in conjunction with the County Council, are strongly encouraged before any survey works are undertaken on the proposed development site.

4.13 Discussions will help inform what level and scope of Mineral Assessment is required, taking into account factors such as:

- the type of mineral resource(s) thought to be present;
- the potential extent of sterilisation which could occur as a result of the development;
- the extent or distribution of survey boreholes / pits;
- site specific considerations;
- potential options for prior extraction; and
- Economic viability of the mineral, i.e. the local market interest.

4.14 It is recommended that a draft trial pit / borehole location plan is agreed with the County Council at the pre-application stage in order to avoid delays and the need for further surveys at a later stage.

4.15 Prior extraction and on-site use of the material should be considered early on during the initial master-planning stages of the proposed development. The presence of the mineral resource could present opportunities to influence the design of the proposal.

4.16 The BGS's best practice guidance on mineral safeguarding[11] recommends Minerals Assessments assessing the quality and quantity of mineral resource at a site comprise the following:

<u>Site specific desk-based assessment of the existing surface and solid geological and mineral resource information</u>

4.17 This may comprise existing information on the mining and quarrying history, mineral assessments and market appraisals, boreholes, site investigations, geological memoirs, technical reports, mining plans and the thickness of superficial geological deposits.

<u>More detailed analysis of the site-specific information</u>

4.18 This should be prepared by a suitably qualified and competent professional (geologist or minerals surveyor). This should include:

- An estimate of the economic value, quality and quantity of the mineral;
- Its potential for on-site use and whether it is feasible and viable to extract the mineral resource ahead of development to prevent unnecessary sterilisation;
- Where prior extraction can be undertaken, an assessment of the amount of material that can be extracted and an explanation of how this will be

[11] BGS (2/011) Mineral Safeguarding in England: good practice advice

carried out as part of the overall development scheme.

4.19 It is likely that in most cases more detailed site-specific information will be required to provide sufficient information to inform the County Council's response to a consultation and to enable the Borough Council to be satisfied on its requirements in respect of the NPPF, paragraph 144.

Minerals Assessment Methods

Figure 4 – Example Trial Pit

4.20 Depending on the nature of the safeguarded resource (e.g. superficial deposits such as sand and gravel or crustal mineral deposits such as Kentish Ragstone), the County Council recommends that trial pits or boreholes typically to a depth of approximately 2.5 - 3.5m would generally be appropriate, although depending upon available geological data this may need to be extended to 5m in some areas. Table 2 below provides further detail.

4.21 Ground investigations undertaken as part of a geotechnical study to support a Flood Risk Assessment (FRA) would normally be to a similar depth and so such site surveys could therefore be linked or undertaken at the same time. Investigations on Particle Size Distribution (PSD) of any recovered sand and gravel are also often carried out as part of a FRA. Similarly, there may be synergies with heritage asset investigations and potential cost reductions, i.e. one contractor digging trial trenches for both purposes.

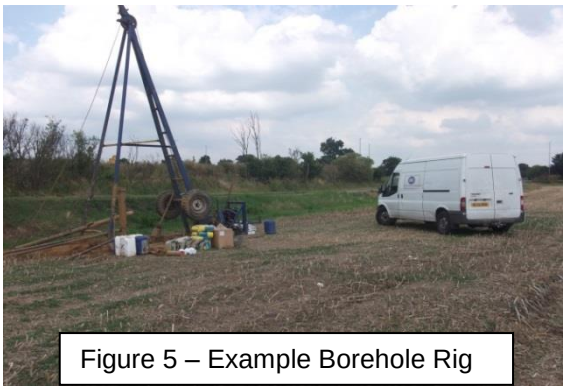

Figure 5 – Example Borehole Rig

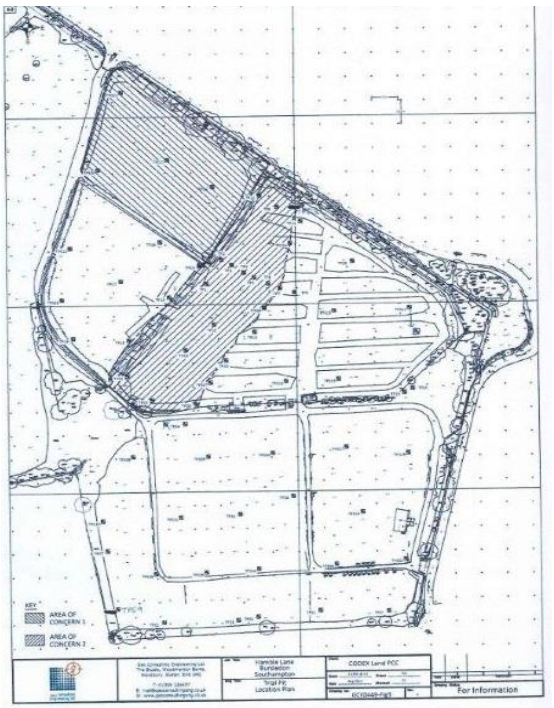

Figure 6 – Offset Grid

4.22 The spacing of trial pits and/or boreholes is important to ensure that a thorough assessment of the mineral resource thought to be present can be made. An initial spacing of approximately 150m center-to-center appears to be the generally accepted practicable approach to be initially considered, although additional densities may also be required to determine the extent of the deposit as appropriate. Table 2 describes the general parameters of site investigation required for different types of mineral.

Table 2: Site investigation methodologies for economic minerals in Kent

Type of Economic Geology Kent[12]	**Site Specific Investigation/Methodology**
Superficial deposits such as **Brickearth**, **River Terrace Sands and Gravels**, and **Alluvial Sands and Gravels**	**Trial Trenching Surveys**: Would normally require trial trenching to a depth of 2-3m. When there is evidence of greater thickness of potentially viable deposits, continuous flight auger bore hole drilling may be required to investigate the full extent of the superficial deposit depth across site.
Non-hard crustal geologies such as the **Folkestone Beds** (building sands)	**Drilling Surveys**: To determine deposit depth a continuous flight auger borehole drilling should normally be used to investigate the full extent of the viable deposit across the site.
Hard crustal geologies such as the **Hythe Formation** (Kentish Ragstone)	**Drilling Surveys**: Drilling techniques employing diamond and/or tungsten drill bit cutting technologies should normally be employed to investigate the full extent of the viable deposit depth across the site. Regard for practical working (quarrying) depths and standing water table levels would have to be had in determining overall depth of drilling investigations.

[12] The current British Geological Survey data specifically supplied to the County Council excludes the Upper, Middle and Lower Chalk and the London Clay as economically important minerals.

Reserve/ Overburden Ratio Analysis Recording the specific site overburden depth above mineral resource. This is useful to inform the Minerals Assessment for the site in terms of economic viability and practicality.
Published Information Desk top survey work should be supported by: • Any existing site investigation reports that are available • Mineral Safeguarding Maps (part of the adopted Kent Minerals and Waste Local Plan 2013-30) • BGS Geological Resources maps and geological memoirs: http://www.bgs.ac.uk/downloads/start.cfm?id=2600 https://www.bgs.ac.uk/downloads/start.cfm?id=2599

4.23 The economic viability of mineral resources and the viability of extracting these may change over time as resources become scarcer, technology improves, and markets change.

4.24 The recommended key aspects to consider in a Minerals Assessment of a proposed development in an MSA are set out in Table 3 below, reflecting the requirements of Kent MWLP safeguarding policies. Other factors may be relevant on a case by case basis.

Table 3. Factors to consider in Minerals Assessments

Site Information	Likely requirements
Proposal Site	• Area – red line and buildings footprint • Description of proposed development • Consideration of alternative location for the development outside the MSA • Timetable for the development
Mineral Reserve	• Type & extent of the mineral • Depth of the deposit and variability across the site • Depth of overburden and variability across the site • Ratio of overburden to mineral resource • Mineral quality (e.g. BSI) standard or equivalent with or without processing) • Estimated gross mineral resource affected
Mineral Extraction Constraints	• Site infrastructure/ utilities • Site constraints / designations • Proximity of other development

Prior Extraction:	
Commercial Market and Practical Considerations	• Effect on deliverability and viability of proposed non-minerals development • Interested operator/local market for the minerals • Distance from the site to market destination • Method of transport / route to be taken • Does the market destination have permission to accept imported materials / is permission required? • Mineral processing infrastructure requirements, on or off-site • Space for storage of materials and effect on phasing or design • Costs or savings
Practicability and acceptability of extraction in terms of impacts on the environment or communities	• Site setting and constraints • Accessibility and transport • Land stability • Hydrology – groundwater and flood risk • Site restoration scheme in the event that the development does not proceed following prior-extraction

Mineral Assessment Conclusions

4.25 In order for the planning application to proceed without an objection from the County Council, the conclusions of the Mineral Assessment would have to satisfactorily demonstrate that Policy DM 7 clauses 1 – 3 or 5 apply to the proposed development i.e.:

1. *the mineral is not of economic value (due to quality and/or quantity), or*

2. *that extraction would not be viable or practicable* (for instance site access is constrained, extraction would make the non-mineral development unviable or unreasonably increase costs of development); or

3. *the mineral can be extracted satisfactorily, having regard to Policy DM9, prior to the non-minerals development taking place without adversely affecting the viability or deliverability of the non-minerals development; or*

5. *material considerations indicate that the need for the development overrides the presumption for safeguarding such that the sterilization of the mineral can be permitted following the exploration of opportunities for prior extraction.*

4.26 The ‘or’ after each of the clauses in Policy DM 7 means that they each need to be considered. However, sequentially it will make sense for consideration of the economic value (clause 1) and viability and practicability of extraction being considered first before considering practicability of prior

extraction (clause 2) and whether the need for the development outweighs the safeguarding of the mineral (clause 5).

4.27 The assessment may conclude that the site may be partially viable for extraction. In such circumstances the County Council will encourage prior extraction of as much material as is practicable.

4.28 If the County Council is satisfied that the Mineral Assessment information adequately demonstrates the prior extraction would not be viable, the promoter/ applicant is encouraged to utilise any mineral resources excavated through incidental extraction during the construction of any permitted application, in the interests of sustainable development.

4.29 It is important to note that any objection made by the County Council on safeguarding grounds will be a statutory objection and a material consideration for the determination of the proposal.

4.30 Although the County Council's adopted approach to mineral resource safeguarding is to exclude urban settlement areas from the Kent MSAs designation, mineral resources are present beneath these areas.

4.31 Safeguarding issues and the conclusion of a Minerals Assessment should be addressed in the Planning Statement, or where appropriate, in the Environmental Statement if the proposal is to be subject to Environmental Impact Assessment (EIA), that accompanies a planning application.

Prior Extraction

4.32 Where prior extraction is proposed, Kent MWLP Policy CSM 4 *Non-Identified land-won Mineral Sites* and Policy DM 9 *Prior Extraction of Minerals in Advance of Surface Development* will apply. The avoidance of sterilising reserves is one of the 'over-riding benefit' criteria that could justify an exception to the Plan's mineral strategy (and so enabling minerals extraction to proceed on a site not allocated in the Minerals Sites Plan under Kent MWLP Policy CSM 4).

4.33 Where prior extraction has been proven to be unviable, any mineral resources extracted during construction works and re-used on site are likely to be considered as an ancillary operation of construction works of the proposal under Kent MWLP Policy DM 21: *Incidental Mineral Extraction*. The on-site re-use of the excavated 'waste' mineral resources could be secured as a condition of any grant of planning permission.

Minerals and Waste Management Infrastructure - Information Requirements

4.34 Policy DM 8: Safeguarding Minerals Management, Transportation & Waste Management facilities sets out the only circumstances where non-minerals and waste development proposed within or in proximity to (within

250m) safeguarded minerals management, transportation or waste management facilities would be considered acceptable.

Exempt Developments

4.35 Development proposals considered acceptable or exempt from safeguarding are specified in Policy DM 8 clauses 1 & 2:

1. *it constitutes development of the following nature: advertisement applications; reserved matters applications; minor extensions and changes of use and buildings; minor works; and non-material amendments to current planning permissions; or*

2. *it constitutes development on the site that has been allocated in the adopted development plan;*

4.36 Proposals for exempt developments should be accompanied by a statement with relevant details demonstrating that they are exempt. The County Council will not normally be consulted on these types of developments, but advice may be sought if any queries arise regarding safeguarding and mitigation, for example where sites allocated in a Local Plan are developed.

Development Proposals in the Vicinity of Safeguarded Sites

4.37 Notwithstanding the exemptions to safeguarding provided by clauses 1 to 7 of Policy DM 8, all proposals for non-minerals and waste development (including temporary developments) within 250m of safeguarded facilities would need to be accompanied by information to demonstrate that they are not incompatible in that:

- impacts that may legitimately arise from the activities taking place at the safeguarded facilities (e.g. noise, dust, light and air emissions) would not be experienced to an unacceptable level by occupants of the proposed development (and potentially also lead to constraints being imposed on the operation in the future);

- vehicle access to and from the safeguarded facility would not be constrained by the development proposed.

4.38 Planning applications that do not satisfactorily demonstrate the above would receive an objection from the County Council on the grounds of incompatibility and causing unacceptable encroachment. In the determination of such proposals, the need for the development will need to be weighed against the need to retain the safeguarded facility, the scale of potential impact and the objectives and policies of the development plan as a whole.

Minerals and Waste Infrastructure Assessment

4.39 Potentially incompatible developments proposed on safeguarded sites (those outside of Policy DM 8 clauses 1 & 2) are required to have regard to whether proposals would impair the operation of safeguarded facilities. As with DM 7 the 'or' after each clause indicates that each need to be considered. However, in practice it will make sense for proposals for non-exempt development types to consider clauses 4 and 5 before clause 3 (replacement capacity).

4.40 Proposals applicable under either of Policy DM 8 clauses 4 & 5 below will need to provide assessment information, as appropriate to the nature and scale of the proposed development, in a Minerals and Waste Infrastructure Assessment:

Impacts on Operations:

4. *it is for a temporary period and will not compromise its potential in the future for minerals transportation; or*

Current and Future Viability:

5. *the facility is not viable or capable of being made viable; this should include evidence of the historic use of the site and factors affecting its viability or refurbishment to be made viable.*

Potential for Alternative, Replacement Capacity

4.41 If the proposed development does not fall under clause 4 or demonstrably meet the requirements of clause 5, proposals for incompatible development on safeguarded sites will be required to provide information to demonstrate that:

4. *replacement capacity, of the similar type, is available at a suitable alternative site, which is at least equivalent or better than that offered by the facility that it is replacing;*

5. *replacement capacity must be at least equivalent in terms of tonnage, accessibility, location in relation to the market, suitability, availability of land for processing and stockpiling of waste and minerals, and*.

- *in the case of wharves, the size of the berth for dredgers, barges or ships, ensuring the depth and tidal flows meet the requirements.*
- *in the case of waste facilities, replacement capacity must be at least at an equivalent level of the waste hierarchy and capacity may be less if the development is at a higher level of the hierarchy*

There must also be no existing, planned or proposed developments that could constrain the operation of the replacement site at the required capacity.

Local Lists

4.42 The County Council recommends that all Kent district and borough councils include Minerals Assessments and Minerals and Waste Infrastructure Assessments in the local list of validation information requirements for planning applications within MSAs and MCAs and within 250m of safeguarded minerals and waste facilities.

5.Minerals and Waste Safeguarding Procedure

5.1 The key to safeguarding is early and constructive consultation between the local planning authorities and the County Council.

5.2 The consultation process between the relevant Kent local district and borough authority and the Ebbsfleet Development Corporation (the LPA) and the County Council (the MPA and/or WPA) will be triggered by proposals for incompatible and non-exempt development within the MSA/MCA and the 250m consultation zones surrounding the safeguarded minerals and waste sites, infrastructure and allocations; this will apply in the case of both development proposals and proposed site allocations in District/Borough Local Plans.

5.3 The Local Planning Authority should take the Kent MWLP policies and County Council's comments into account when determining applications for potentially incompatible development, including imposition of appropriate conditions on planning permissions to mitigate the potential effects of development on the safeguarded resource and/or infrastructure.

5.4 Any objection made by the County Council on safeguarding grounds will be a statutory objection and a material consideration for the determination of proposals.

5.5 As set out in Section 3, applicants will be expected to provide adequate information in the form of a Minerals Assessment (for Policy DM7) or a Minerals and Waste Infrastructure Assessment (for Policy DM8) accompanying a planning application to enable the County Council to assess the application against the safeguarding policies of the Kent MWLP.

Consultation on Planning Applications

Pre-application

5.6 Pre-application discussions with the relevant district/ borough authority, in conjunction with the County Council, are strongly encouraged to identify proposals within safeguarded areas and indicate the level and scope of Minerals or Infrastructure Assessment and information that may be required.

Validation of Planning Applications

5.7 The inclusion of these Assessments in the Validation Local List ensures that all necessary information required to determine the application is provided at the time of submission. This would avoid unnecessary delays when the application is being considered.

Consultation

5.8 Local planning authorities will consult the County Council on applications for development within MSAs and MCAs and within 250m of safeguarded infrastructure, accompanied by the appropriate Minerals or Infrastructure Assessment prepared by the applicant. These should be sent to mwdf@kent.gov.uk

5.9 The County Council will provide an initial response to consultation requests within 21 days, which may include a request for further information if the Assessment is considered to be inadequate or unclear.

5.10 If no response is received by the end of the consultation period or any agreed extension of time, the determining authority can proceed with the determination of the application without the views of the County Council on a proposal's compatibility with minerals and waste safeguarding policies.

5.11 The Port of London Authority should be consulted on all applications which have safeguarding implications for mineral wharves.

Consultation on Local Plan Preparation and Allocations

5.12 Kent district and borough councils are required to have regard to the Kent MWLP safeguarding policies when identifying suitable areas for non-mineral and non-waste development in their local plans, as well as showing MSAs and MCAs on their policy maps[13].

5.13 The process of allocating land for non-minerals and non-waste uses in the

[13] Planning Practice Guidance Paragraph: 005 Reference ID: 27-005-20140306

district/ borough authority Local Plans will therefore need to take account of the presence of safeguarded minerals resources and any existing, planned or potential minerals and waste infrastructure. The relevant factors for consideration are the same as those for a planning application, as set out in Policies DM7, DM8, CSM5, CSM6 and CSM7.

5.14 The County Council can offer advice to support the district and borough authorities during the site allocation process and should be formally consulted on any proposals in safeguarded areas.

5.15 Local planning authorities will consult the County Council when preparing development plans to ensure that safeguarding is properly taken into account when sites are allocated for non-minerals and non-waste development. Development within MSAs and MCAs and within 250m of safeguarded infrastructure should be avoided where possible.

5.16 Where site allocations are proposed in these areas the local planning authority will need to demonstrate the need for the development at the location and consult the County Council to consider what measures may be taken to mitigate the effect of the development on the safeguarded resources or assets, in order to ensure conformity with the Kent MWLP policies.

Adopted Policies Maps and GIS Information

5.17 GIS information files have been provided to all district and borough councils, with the expectation that safeguarded areas will be shown on each authority's own policy maps in line with national planning policy guidance.

5.18 The GIS files include:

- Mineral Safeguarding Areas (MSAs) and Mineral Consultation Areas (MCAs)
- Existing mineral working sites
- Safeguarded Wharves and Rail Transportation Adopted Policies Maps: Sites A - Q
- Existing other (recycling/secondary aggregate production) mineral plant infrastructure sites
- Existing waste management facility sites

5.19 GIS information for all allocated waste and minerals sites will also be provided for inclusion on the Kent district and borough authority's policy maps.

5.20 Sites with planning permission for other mineral plant infrastructure and permanent planning permission for waste management will be reviewed on an annual basis as part of the overall monitoring of the Plan. The updated GIS information will be provided by the County Council to the district/ borough

authorities.

6. Monitoring and Review

6.1 The monitoring and implementation framework in Chapter 8 of the Kent MWLP 2013-30 includes a schedule on how the Plan's safeguarding policies and related strategic objectives will be achieved through the monitoring of data indicators. Each indicator has a target against which the performance of the policy can be monitored with a 'trigger point' to indicate when corrective action may be required.

6.2 The monitoring of Policy CSM 5: Land-won Mineral Safeguarding includes an indicator on the annual review of the MSA designations.

6.3 Monitoring of the implementation of the Kent MWLP safeguarding policies will be carried out as part of the production of the Kent Annual Monitoring Report. Policies may be subject to review if annual monitoring indicates that any significant, adverse trends are likely to continue.

APPENDIX 1 Kent MWLP 2013-30 Safeguarding Policies

Policy CSM 4

Non-identified Land-won Mineral Sites

With the exception of proposals for the extraction of silica sand provided for under Policy CSM 2, proposals for mineral extraction other than the Strategic Site for Minerals and sites identified in the Minerals Sites Plan will be considered having regard to the policies of the development plan as a whole and in the context of the Vision and Objectives of this Plan, in particular the objective to plan for a steady and adequate supply of aggregates and industrial minerals. Where harm to the strategy of the development plan is shown, permission will be granted only where it has been demonstrated that there are overriding benefits that justify extraction at the exception site.

(While not entirely related to safeguarding, Policy CSM4 applies where prior extraction is proposed)

Policy CSM 5

Land-won Mineral Safeguarding

Economic mineral resources are safeguarded from being unnecessarily sterilised by other development by the identification of:

1. Mineral Safeguarding Areas for the areas of brickearth, sharp sand and gravel, soft sand (including silica sand), ragstone and building stone as defined on the Mineral Safeguarding Area Policies Maps in Chapter 9

2. Mineral Consultation Areas which cover the same area as the Minerals Safeguarding Areas and a separate area adjacent to the Strategic Site for Minerals at Medway Works, Holborough as shown in Figure 17

3. Sites for mineral working within the plan period identified in Appendix C and in the Mineral Sites Plan.

Policy CSM 6

Safeguarded Wharves and Rail Depots

Planning permission will not be granted for non-minerals development that may unacceptably adversely affect the operation of existing, planned or potential sites, such that their capacity or viability for minerals transportation purposes may be compromised.

The following sites, and the allocated sites included in the Minerals Sites Plan, are safeguarded:

1. Allington Rail Sidings
2. Sevington Rail Depot
3. Hothfield Works
4. East Peckham
5. Ridham Dock (both operational sites)
6. Johnson's Wharf, Greenhithe
7. Robins Wharf, Northfleet (both operational sites)
8. Clubbs Marine Terminal, Gravesend
9. East Quay, Whitstable
10. Red Lion Wharf, Gravesend
11. Ramsgate Port
12. Wharf 42, Northfleet (including Northfleet Cement Wharf)
13. Dunkirk Jetty (Dover Western Docks)
14. Sheerness
15. Northfleet Wharf
16. Old Sun Wharf, Gravesend

Their locations are shown in Figure 13: Minerals Key Diagram in Chapter 2 and their site boundaries are shown in Chapter 9: Adopted Policies Maps.

The Local Planning Authorities will consult the Minerals Planning Authority and take account of its views before making a planning decision (in terms of both a planning application and an allocation in a local plan) for non-mineral related development (other than that of the type listed in policy DM 8 (clause 1) on all development proposed at, or within 250m of, safeguarded minerals transportation facilities.

Policy CSM 7

Safeguarding Other Mineral Plant Infrastructure

Facilities for concrete batching, the manufacture of coated materials, other concrete products and the handling, processing and distribution of substitute, recycled and secondary aggregate material in Kent are safeguarded for their on-going use. Where these facilities are situated within a host quarry, wharf or rail depot facility, they are safeguarded for the life of the host site.

Where other development is proposed at, or within 250m of, safeguarded minerals plant infrastructure, Local Planning Authorities will consult the Minerals planning Authority and take account of its views before making a planning decision (in terms of both a planning application and an allocation in a local plan).

Policy CSW 16

Safeguarding of Existing Waste Management Facilities

Sites that have permanent planning permission for waste management, or are allocated in the Waste Sites Plan are safeguarded from being developed for non-waste management uses.

Where other development is proposed at, or within 250m of, safeguarded waste management facilities Local Planning Authorities will consult the Waste planning Authority and take account of its views before making a planning decision (in terms of both a planning application and an allocation in a local plan)

Policy DM 7

Safeguarding Mineral Resources

Planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding where it is demonstrated that either:

1. the mineral is not of economic value or does not exist; or

2. that extraction of the mineral would not be viable or practicable; or

3. the mineral can be extracted satisfactorily, having regard to Policy DM9, prior to the non-minerals development taking place without adversely affecting the viability or deliverability of the non-minerals development; or

4. the incompatible development is of a temporary nature that can be completed and the site returned to a condition that does not prevent mineral extraction within the timescale that the mineral is likely to be needed; or

5. material considerations indicate that the need for the development overrides the presumption for mineral safeguarding such that sterilisation of the mineral can be permitted following the exploration of opportunities for prior extraction; or

6. it constitutes development that is exempt from mineral safeguarding policy, namely householder applications, infill development of a minor nature in existing built up areas, advertisement applications, reserved matters applications, minor extensions and changes of use of buildings, minor works, non-material amendments to current planning permissions; or

7. it constitutes development on a site allocated in the adopted development plan

Further guidance on the application of this policy will be included in a Supplementary Planning Document.

Policy DM 8

Safeguarding Minerals Management, Transportation Production & Waste Management Facilities

Planning permission will only be granted for development that is incompatible with safeguarded minerals management, transportation or waste management facilities, where it is demonstrated that either:

1. it constitutes development of the following nature: advertisement applications; reserved matters applications; minor extensions and changes of use and buildings; minor works; and non-material amendments to current planning permissions; or

2. it constitutes development on the site that has been allocated in the adopted development plan; or

3. replacement capacity, of the similar type, is available at a suitable alternative site, which is at least equivalent or better than to that offered by the facility that it is replacing; or

4. it is for a temporary period and will not compromise its potential in the future for minerals transportation; or

5. the facility is not viable or capable of being made viable. or

6. material considerations indicate that the need for the development overrides the presumption for safeguarding

7. it has been demonstrated that the capacity of the facility to be lost is not required

Replacement capacity must be at least equivalent in terms of tonnage, accessibility, location in relation to the market, suitability, availability of land for processing and stockpiling of waste and minerals, and:

- in the case of wharves, the size of the berth for dredgers, barges or ships
- in the case of waste facilities, replacement capacity must be at least at an equivalent level of the waste hierarchy and capacity may be less if the development is at a higher level of the hierarchy

There must also be no existing, planned or proposed developments that could constrain the operation of the replacement site at the required capacity.

Planning applications for development within 250m of safeguarded facilities need to demonstrate that impacts, e.g. noise, dust, light and air emissions, that may legitimately arise from the activities taking place at the safeguarded sites would not be experienced to an unacceptable level by occupants of the proposed development and that vehicle access to and from the facility would not be constrained by the development proposed.

Further guidance on the application of this policy will be included in a Supplementary Planning Document

Policy DM 9

Prior Extraction of Minerals in Advance of Surface Development

Planning permission for, or incorporating, mineral extraction in advance of development will be granted where the resources would otherwise be permanently sterilised provided that:

1. the mineral extraction operations are only for a temporary period; and,

2. the proposal will not cause unacceptable adverse impacts to the environment or communities

Where planning permission is granted for the prior extraction of minerals, conditions will be imposed to ensure that the site can be adequately restored to a satisfactory after-use should the main development be delayed or not implemented

Policy DM 21

Incidental Mineral Extraction

Planning permission for mineral extraction that forms a subordinate and ancillary element of other development will be granted provided that operations are only for a temporary period. Where planning permission is granted, conditions will be imposed to ensure that the site can be restored to an alternative after-use in accordance with Policy DM 19 should the main development be delayed or not implemented.

(While not entirely related to safeguarding, Policy DM21 applies where prior extraction is not viable but there may be incidental extraction associated with development.)

Appendix 2: Kent MWLP 2013-30 Safeguarding Policies – summary of key provisions

The Kent MWLP 2013-30 safeguarding policies are outlined below and explained in more detail in the following sections (Section 3.7 – 3.17)

Table 2.1 Kent Minerals and Waste Local Plan 2013-30 Safeguarding Policies

Minerals and Waste Safeguarding in Kent	MWLP Policy
What is safeguarded and where are the areas located?	
Economic land-won mineral resources: • Mineral Safeguarding Areas (MSAs) Adopted Policies Maps • Mineral Consultation Areas (same coverage as MSAs) plus the area surrounding the mineral reserves of the Strategic Site for Minerals • Existing mineral working sites (a list of sites updated and published each year in the Kent AMR) • Adopted Kent Mineral Site Plan Allocations for mineral working	CSM 5
Existing, planned or potential mineral infrastructure At and within 250m of: • Safeguarded Wharves and Rail Transportation Adopted Policies Maps: Sites A - Q • Other mineral plant infrastructure sites (a list of sites updated and published each year in the Kent AMR) • Adopted Kent Mineral Site Plan Allocations for mineral infrastructure	CSM6; CSM7; DM8
Permanent waste management facilities At and within 250m of: • Existing waste management facility sites (a list of sites updated and published each year in the Kent AMR) • Adopted Kent Waste Site Plan Allocations	CSW16
What are the relevant safeguarding policies for non-minerals and waste development proposals in safeguarded areas?	
Circumstances when non minerals and waste uses may be acceptable within Mineral Safeguarding Areas	DM 7
Incorporating viable mineral extraction in advance of development of safeguarded mineral resources (prior extraction), that would otherwise be sterilised by non-minerals development	CSM 4; DM 9
Incidental mineral extraction at development sites during construction	DM 21
Circumstances when non minerals and waste uses may be acceptable at or within 250m of safeguarded minerals management and transportation and waste management facilities	DM 8

and Waste

Local Plan






Minerals and Waste Planning Policy Team

Kent County Council

Invicta House

County Hall

Maidstone

Kent

Tel: 03000 422370

Email: mwlp@kent.gov.uk

Www.kent.gov.uk/mwlp

Kent County Council
kent.gov.uk