

From: Roger Gough, Leader of the Council

Simon Jones, Corporate Director for Growth, Environment and Transport

To: Environment and Transport Cabinet Committee – 15 November 2023

Decision No: 23/00093

Subject: Pre-Submission Draft Kent Minerals and Waste Local Plan 2024-39 and Kent Minerals and Waste Development Scheme Update

Classification: Unrestricted

Past Pathway of Paper: N/A

Future Pathway of Paper: N/A

Electoral Division: Countywide

Summary: The County Council has a statutory responsibility to plan for future minerals supply and waste management within Kent. To this end, the Kent Minerals and Waste Local Plan 2013-30 (KMWLP) was adopted by Full Council in July 2016 with some limited changes adopted in September 2020. The Kent Minerals and Waste Local Plan contains planning policies relating to minerals supply and waste management against which the Council assesses planning applications for these types of development. In addition, the Kent Mineral Sites Plan (adopted in September 2020) identifies three sites suitable for the quarrying of sand and gravel.

Regulations require local plans to be reviewed every five years and review of the Kent Minerals and Waste Local Plan in 2021 concluded a need for updates including to the Vision, Strategic Objectives, Policies and supporting text to reflect changes in national and local policy and guidance since 2016. These include changes to the National Planning Policy Framework, government policy on climate change, protection and enhancement of the natural environment and achievement of a circular economy. The proposed updates to the Kent Minerals and Waste Local Plan have been subject to an initial consultation with key stakeholders followed by three public consultations since 2021 (in accordance with Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)). Agreement is sought to publish a final 'pre-submission' the Kent Minerals and Waste Local Plan, that will cover the period 2024 to 2039, for a statutory six-week period for representations on its soundness and legality prior to submission to the Secretary of State for independent examination. During the examination, the Inspector will consider any representations and may convene public hearings.

Legislation requires local plan making work to be undertaken in accordance with a published timetable or 'Development Scheme'. The most recent timetable for updating the Kent Minerals and Waste Local Plan and the Kent Mineral Sites Plan (KMSP) is set out in the Council's 'Minerals and Waste Local Development Scheme' (LDS) and was considered by Environment and Transport Cabinet Committee and agreed by the Cabinet Member in May 2023. In light of the need for further evidence gathering to ensure that the updated Kent Mineral Sites Plan is robust and justified it is proposed that a change to the Local Development Scheme to allow for this.

Recommendations:

Following work on updating the adopted Kent Minerals and Waste Local Plan 2013-2030 and the Kent Mineral Sites Plan, the Environment and Transport Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Member on, the proposed decision as detailed below:

Proposed decision – as Cabinet Member for Environment, I:

A. Recommend that County Council:

- (i) Approve, and publish for public consultation, a Pre-Submission Draft of the Kent Minerals and Waste Local Plan 2024-39 for representations on soundness and legal compliance;
- (ii) Agree to submit the Pre-Submission Draft of Kent Minerals and Waste Local Plan 2024-39 to Government for Independent Examination into its soundness and legal compliance following the representation period;
- (iii) Agree to request the examination Inspector to recommend changes ('main modifications') needed to ensure the soundness of the Kent Minerals and Waste Local Plan;
- (iv) Delegate powers to the Corporate Director for Growth, Environment & Transport to, in consultation with the relevant Cabinet Member,
 - a. Agree main modifications with the Inspector and to publish them for representations on soundness and legal compliance;
 - b. Approve any non-material changes to the draft Kent Minerals and Waste Local Plan 2024-39;

B. Agree a revised Local Development Scheme (timetable) for work related to mineral and waste planning policy in Kent, as shown at Appendix A.

1 Introduction and Background

- 1.1 As the minerals and waste planning authority for Kent, the County Council is required to prepare and maintain planning policy concerning waste management and minerals supply in the County. The Kent Minerals and Waste Local Plan 2013-30 was adopted by the Council in July 2016 and sets out the strategy and policy framework for minerals and waste development in Kent which includes future capacity and supply requirements. The Kent Minerals and Waste Local Plan, together with the Kent Mineral Sites Plan, forms part of the Development Plan for Kent which is key, both for the determination of planning applications for minerals and waste development by the County Council, and applications relating to other development that may affect minerals and waste development or other aspects determined by the District and Borough Councils in Kent.
- 1.2 Following its adoption, the Kent Minerals and Waste Local Plan was subject to an 'Early Partial Review' and changes resulting from this review were adopted by the Council in September 2020. Also in September 2020, the Council adopted the Kent Mineral Sites Plan.
- 1.3 The National Planning Policy Framework (NPPF) (and legislation¹) states policies in Local Plans should be reviewed at least once every five years to

¹ Regulation 10A of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)

assess whether they need updating and should then be updated, as necessary. A review of the Vision, Strategic Objectives and policies in the Kent Minerals and Waste Local Plan was undertaken in 2021 that concluded a need for updates to the Plan in response to relevant Government policy and legislation published since the Plan was adopted in 2016. The review also identified changes to the local context requiring further updates to be made.

- 1.4 The process of updating the Plan needs to follow that set out in the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012 ('the plan making regulations') as well as the NPPF and Planning Practice Guidance. In line with the legislation and guidance updates to the Plan have been proposed and undergone consultation with communities and relevant stakeholders.
- 1.5 The Environment and Transport Cabinet Committee has previously considered proposed updates the Kent Minerals and Waste Local Plan which have been subject to public consultation in accordance with the table below:

Consultation	Dates	Summary
Initial consultation with key stakeholders	26 th March 2021 - 9 th April 2021 (14 days)	Initial evidence gathering to determine which parts of the Plan may need updating
Regulation 18 public consultation on Kent Minerals and Waste Local Plan Refresh	16 th December 2021 - 9 th February 2022 (8 weeks (over Christmas period))	Consultation on proposed changes to the KMWLP's vision, objectives, policies and supporting text in light of government policy and legislation published since 2016. Amongst other matters, this included changes to the NPPF, policy and legislation concerned with achieving a circular economy and more ambitious targets concerning biodiversity net gain.
Second Regulation 18 public consultation on draft Kent Minerals and Waste Local Plan 2023-38	24 th October 2022 - 5 th December 2022 (6 weeks)	Consultation on a further draft updated KMWLP with changes including, amongst other matters, extending the plan period to 2038 and changes to policies CSW 8, 12 and 17 and the removal of the strategic mineral site at Holborough (CSM 3).
Third Regulation 18 public consultation on Further Proposed Changes to the Kent Minerals and Waste Local Plan	13 th June - 25 th July 2023 (6 weeks)	Consultation focused on further proposed changes to KMWLP including, extending the plan period to 2039, changes to policy CSM2, the removal of the strategic waste site at Norwood Quarry (CSW5) and a commitment to make provision for

		the management of certain waste produced in London.
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- 1.6 Comments on the proposed changes to the Kent Minerals and Waste Local Plan were received at each public consultation stage. A table of the comments received on the first draft update was published with the Council's response to the comments. This table sets out how certain comments resulted in further changes which were published for consultation.

2 Pre-Submission Draft Kent Minerals and Waste Local Plan

- 2.1 A table summarising comments made at the second and third consultation stages has been prepared that shows how changes have been made to the Kent Minerals and Waste Local Plan in response to those comments. This table is provided as Appendix 1.
- 2.2 The text of the Pre-Submission Draft Kent Minerals and Waste Local Plan 2024-39 has taken into account all the comments made during the consultation exercises on previous drafts (see above) but no further substantive changes that have not been previously consulted on are proposed.
- 2.3 The changes to the currently adopted Kent Minerals and Waste Local Plan, which are proposed to form the Pre-Submission Draft Kent Minerals and Waste Local Plan 2024-39, are all shown clearly in a tracked change version of the document which is provided as Appendix 2A. The majority of the changes have previously been reported to Environment and Transport Cabinet Committee and can be summarised as follows:
- Updates to the National Planning Policy Framework in 2018, 2019 and 2021 and associated Planning Practice Guidance.
 - legislation and policy concerning the need to adapt to, and mitigate, climate change and associated low carbon growth.
 - policy and legislation concerned with achieving a circular economy where more waste is prevented or reused.
 - extending the plan period to 2039.
 - updates to aggregate requirements in Policy CSM2 and waste management targets in Policy CSW4.
 - deletion of Policy CSM5 that allocates a strategic site for minerals as permission has been granted.
 - removal of the strategic site allocation at Norwood Quarry, Sheppey for the landfill of hazardous waste specifically incinerator fly ash (Policy CSW5).
 - a recognition within supporting text of the need for the development of additional capacity for the management of household waste identified by the Waste Disposal Authority.
 - removal of a commitment to make specific provision for the management of residual non-hazardous waste by landfill or energy recovery that arises in London.
 - a change to Policy DM3 is proposed that seeks the achievement of maximum biodiversity net gain on the basis that restoration of quarries can

often easily result in much greater than statutory minimum of 10% and Kent Nature Partnership preferred level of 20%.

- adoption by the County Council of the Kent Environment Strategy and Kent and Medway Energy and Low Emissions Strategy; and,
- changes to settlement boundaries affecting the extent of areas identified in the Kent Minerals and Waste Local Plan where the presence of economic minerals needs to be taken into account before surface development can take place. These areas are known as 'Mineral Safeguarding Areas.

2.4 Some further additional changes are proposed as follows:

- Changes to Policy CSW17 relating to waste management at Dungeness were originally proposed to ensure that it was consistent with national policy. Further changes have now been made to ensure that the policy would not allow any more vehicle movements (associated with waste management) than the current adopted policy allows. This change ensures that the updated policy does not require a separate Habitats Regulations Assessment (HRA) which was not the case with the earlier proposed changes. The changes to Policy CSW17 have been made in consultation with the site operators and Natural England. The related HRA Scoping Report has been updated to reflect this change and is provided as Appendix 3.
- changes to the monitoring framework to ensure it properly reflects the updated policies.
- further changes intended to improve the clarity of the Plan's wording and hence the meaning of certain objectives and policies; and,
- further updating to ensure the Plan reflects the latest publications, for example a slightly amended National Planning Policy Framework was published in 2023 and although these changes do not impact minerals and waste, the reference date of the document has changed from 2021 to 2023.

2.5 The additional changes are shown as highlighted in the tracked version of the document at Appendix 2A. It is not considered that these additional changes warrant any further consultation with stakeholders as they are not considered to materially impact on the how and where waste and minerals facilities will be allowed to be developed. **The document provided in Appendix 2A is the version that is proposed be submitted to Government for examination. This version is therefore essentially the final version setting out the changes that the Council wishes to make. An untracked version is provided as Appendix 2B.**

2.6 Legislation requires that an independent 'Sustainability Appraisal' of draft planning policy is undertaken that determines the social, economic, and environmental effects of the policies and makes recommendations for changes. A draft 'appraisal framework' that takes account of baseline conditions as well as other relevant plans, programmes, and policies which development should take account of, in the form of a 'Scoping Report,' was previously published for consultation. Draft Sustainability Appraisals have been prepared to accompany each consultation exercise and an updated version to accompany the Pre-Submission Draft Kent Minerals and Waste Local Plan 2024-39 has been prepared. This is included as Appendix 4A. A Non-Technical Summary of the Sustainability Appraisal is available as Appendix 4B.

3 Update to the Kent Minerals and Waste Development Scheme

- 3.1 Updating the Kent Minerals and Waste Local Plan has taken place in accordance with a timetable published in the Kent Minerals and Waste Local Development Scheme. A revised scheme for updating the Kent Minerals and Waste Local Plan was considered by Environment and Transport Cabinet Committee (ETCC) at its meeting on 23 May 2023 and agreed by the Cabinet Member for Environment.
- 3.2 As was reported to ETCC in September, updating the Kent Mineral Sites Plan requires additional evidence gathering to ensure that the updated plan is robust and justified. The nature of this work was summarised in the report to ETCC. In light of the extent of the evidence gathering activities there is a need to extend the period for preparing the updated Minerals Sites Plan and the table below shows the proposed related changes to the timetable. The proposed changes to the timetable require an update to the Kent Minerals and Waste Development Scheme and this is set out in Appendix 5. No change is proposed to the timetable for updating the Kent Minerals and Waste Local Plan.

Updating the Kent Mineral Sites Plan

Key Stages	Current	Proposed
Evidence gathering including detailed technical assessment	<i>July – October 2023</i>	July 2023 – June 2024
Publication of draft Mineral Sites Plan for representations on soundness (Reg 19)	<i>December 2023 – February 2024</i>	October – November 2024
Submission to Secretary of State for examination	<i>May 2024</i>	February 2025
Independent Examination Hearings	<i>July 2024</i>	March-April 2025
Inspector's Report	<i>November 2024</i>	August 2025
Adoption by Council	<i>February 2025</i>	December 2025

4 Next Steps

Kent Minerals and Waste Local Plan 2024-39

- 4.1 Following consideration by Environment and Transport Cabinet Committee and the Cabinet Member, County Council will be asked to agree that the Pre-Submission Draft KMWLP 2024-39 be submitted to the Secretary of State for independent Examination by a Government-appointed inspector.
- 4.2 Prior to submission, the Plan will be published for a statutory minimum six-week period for representations on its soundness and legal compliance in accordance with Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). This is programmed to occur in early 2024.
- 4.3 During the examination, the Inspector will consider all representations received and may choose to convene public hearings. If requested by the Council, the Inspector can discuss changes needed to ensure soundness (known as 'main modifications'). Ultimately the updated Kent Minerals and Waste Local Plan can only

be adopted by the County Council following receipt of an Inspector's report that finds the Plan and any modifications sound and legally compliant. The Cabinet Committee and County Council would then consider adoption of the Plan and any modifications.

- 4.4 During the process, minor non-material changes (e.g., changes related to grammar and clarity) may be needed, and it is proposed that the agreement to such changes be delegated to the Corporate Director for Growth, Environment & Transport in consultation with the relevant Cabinet Member.
- 4.5 The Government has signaled its intention to update the National Planning Policy Framework (NPPF) to, amongst other things, take account of its net zero carbon emissions target. It will be necessary to closely monitor any such updates to ensure the Plan remains consistent with national policy.
- 4.6 Furthermore, the Government is proposing changes to the system used to prepare local plans. In a recent consultation on the changes the Government indicated that any local plan submitted before 30 June 2025 and adopted by 31 December 2026 would be able progress under the existing system, meaning preparation of the Kent Minerals and Waste Local Plan 2024-39 should be completed under this system. As above, it will be necessary to continue to closely monitor any proposed changes to the local plan making system.

Updating the Kent Mineral Sites Plan

- 4.7 In terms of updating the Kent Mineral Sites Plan, work on this (as described above) will progress in accordance with the revised Minerals and Waste Development Scheme.
- 4.8 Proposed updates will be included in a draft updated Kent Mineral Sites Plan that will be published for representations on their soundness and legality in late 2024. Full Council will be asked to agree publication of any site proposed for allocation.

5 Financial Implications

- 5.1 The costs of preparing the Kent Minerals and Waste Local Plan 2024-39 and updating the Mineral Sites Plan will need to be met from existing KCC budgets. The majority of the costs of the local plan work are met from the Growth and Communities Division Planning Applications budget. The balance, mainly relating to specialist advice and the independent examination may need to be sought from a corporate reserve.
- 5.2 As was previously reported to this Cabinet Committee, public consultation on the Kent Mineral Sites Plan was likely to attract objections which could affect the financial resource required to ensure the plan is robust. This has materialised and resulted in an extended plan making timetable with a 'decoupling' of the Minerals Sites Plan from the process of updating the Kent Minerals and Waste Local Plan. This decoupling means that there will be a need for separate independent examinations which will likely incur additional costs. There remains the risk that publication of the Minerals Sites Plan for representations in 2024 may result in representations which require additional resources to defend the plan at the independent examination.
- 5.3 Implementation of the Plans will ensure the wider Kent economy continues to benefit from the management of waste and supply of minerals within its area. For

example, costs of waste management and mineral supply to businesses in Kent would be higher if a Plan was not in place which does not clearly state how and where waste can be managed, and minerals supplied in Kent.

6 Policy Framework

- 6.1 The Kent Minerals and Waste Local Plan and Kent Mineral Sites Plan deliver the Council's adopted Mineral and Waste planning strategy and are important in the determination of planning applications in Kent. A local plan is prepared in accordance with national planning policy and guidance, whilst providing a local perspective. Mineral and waste planning policies support and facilitate sustainable growth in Kent's economy. They also support the protection and creation of a high-quality environment, with accessible local services that reflect the community's needs.
- 6.2 Updating minerals and waste planning policies takes account of changes to the County Council's corporate policies since July 2016 which are concerned with the way in which land is developed in Kent. These include the Kent Environment Strategy, the Kent and Medway Energy and Low Emissions Strategy, Kent's Plan Bee pollinator action plan and Kent Plan Tree.
- 6.3 Updating the Kent Minerals and Waste Local Plan and the Kent Mineral Sites Plan supports the County Council's strategy, Framing Kent's Future 2022-2026, which sets the Council's priorities for the next three years.

7 Legal Implications

- 7.1 The County Council has a legal obligation under the Town and Country Planning legislation to prepare a statutory Development Plan. The County Council is also required by national planning policy to ensure that local plans promote sustainable minerals and waste development. Updating the Kent Minerals and Waste Local Plan and the Kent Mineral Sites Plan will ensure that minerals and waste development in Kent continues to occur in line with national planning policy.
- 7.2 There is an expectation by Government (Department for Levelling Up, Housing and Communities) that all planning authorities have an up-to-date local plan in place. Without an up to date adopted plan, there is a risk that the Secretary of State will step in as the plan making authority, reducing local accountability.
- 7.3 The process of updating planning policy must take place in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 which include the requirement that public consultation takes place in accordance with Local Planning Authority's Statement of Community involvement and the timetable in the Local Development Scheme.

8 Equalities Implications

- 8.1 An equality impact assessment (EQIA) has been prepared as part of updating the Kent Minerals and Waste Local Plan and no equalities implications have been identified so far. A draft EQIA to accompany the Pre-Submission Draft Kent Minerals and Waste Local Plan 2024-39 is provided at Appendix 6.

9 Conclusion

- 9.1 This report provides an update on the Council's minerals and waste local plan making responsibilities. It includes a version of the updated Kent Minerals and

Waste Local Plan that is proposed as the Council's updated vision, objectives, strategic and development policies which will be used to determine applications for minerals and waste development in Kent to 2039. The updated Plan has been informed by extensive public consultation on draft text since 2021. It is proposed that this version be submitted for examination by the Secretary of State following publication for representations on soundness and legality. A decision to submit the Draft Plan for examination is a matter for County Council.

- 9.2 The report outlines the next steps and notes that the timetable for updating the Kent Minerals and Waste Local Plan and that for updating the Kent Minerals Sites Plan needs to decouple to allow the updating of the Kent Minerals and Waste Local Plan to progress while additional evidence gathering, associated with the Kent Mineral Sites Plan takes place. A revised Local Development Scheme setting out the revised timetable for the work is presented for agreement.

10 Recommendations

Following work on updating the adopted Kent Minerals and Waste Local Plan 2013-2030 and the Kent Mineral Sites Plan, the Environment and Transport Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member on, the proposed decision as detailed below:

Proposed decision – as Cabinet Member for Environment, I:

A. Recommend that County Council:

- (i) Approve, and publish for public consultation, a Pre-Submission Draft of the Kent Minerals and Waste Local Plan 2024-39 for representations on soundness and legal compliance;
- (ii) Agree to submit the Pre-Submission Draft of Kent Minerals and Waste Local Plan 2024-39 to Government for Independent Examination into its soundness and legal compliance following the representation period;
- (iii) Agree to request the examination Inspector to recommend changes ('main modifications') needed to ensure the soundness of the Kent Minerals and Waste Local Plan;
- (iv) Delegate powers to the Corporate Director for Growth, Environment & Transport to, in consultation with the relevant Cabinet Member,
 - a. Agree main modifications with the Inspector and to publish them for representations on soundness and legal compliance;
 - b. Approve any non-material changes to the draft Kent Minerals and Waste Local Plan 2024-39;

B. Agree a revised Local Development Scheme (timetable) for work related to mineral and waste planning policy in Kent, as shown at Appendix A.

11 Appendices and Background Documents

Appendix A – Proposed Record of Decision

Appendix 1: <https://democracy.kent.gov.uk/documents/s121781/Appendix%201.pdf>
Table of comments and responses

- Draft Kent Minerals and Waste Local Plan 2023 consultation October-December 2022
- Further Proposed Changes consultation June – July 2023

Appendix 2A:

Kent Minerals and Waste Local Plan 2024-39 – (showing changes tracked). This shows the changes proposed to the adopted Plan in the style expected for future examination by the Planning Inspectorate.

Appendix 2B:

<https://democracy.kent.gov.uk/documents/s121782/Appendix%202B.pdf>

Kent Minerals and Waste Local Plan 2024-39 - Pre-Submission Draft clean (untracked) version of the Plan

Appendix 3: <https://democracy.kent.gov.uk/documents/s121768/Appendix%203.pdf>

Kent Minerals and Waste Local Plan 2024-39 Habitat Regulations Assessment Scoping Report

Appendix 4A:

<https://democracy.kent.gov.uk/documents/s121772/Appendix%204A.pdf>

Sustainability Appraisal of the Pre-Submission Draft Kent Minerals and Waste Local Plan 2024

Appendix 4B:

Sustainability Appraisal of the Pre-Submission Draft Kent Minerals and Waste Local Plan 2024-39 - Non Technical Summary

Appendix 5:

Draft Revised Kent Minerals and Waste Local Development Scheme, October 2023

Appendix 6:

Pre-Submission Draft Kent Minerals and Waste Local Plan 2024-39 - Equality Impact Assessment

Background documents:

- [Kent Minerals and Waste Local Plan 2013-30 as amended by the Early Partial Review 2020](#)
- [Report of the 5 Year Review of the Kent Minerals Waste Local Plan, 2021](#)
- [Proposed Draft Changes to the Kent Minerals Waste Local Plan, December 2021](#)
- [Consultation on Updates to the Kent Minerals and Waste Local Plan 2013-30 – Analysis of Comments received to Regulation 18 consultation December 2021 – February 2022](#)
- [Draft Kent Minerals and Waste Local Plan 2023-38, October 2022](#)
- [Draft Kent Minerals and Waste Local Plan 2024-39 – Further Proposed Changes – Consultation Document, May 2023](#)
- [Kent Minerals and Waste Development Scheme, May 2023](#)
- [Kent County Council Statement of Community Involvement, 2021](#)
- [Environment and Transport Cabinet Committee September 2023 – Item 12](#)

12 Contact details

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