

To: Susan Carey – Cabinet Member for Environment

From: Barbara Cooper, Corporate Director for Growth, Environment and Transport

Decision No: 21/00026

Subject: Update of the Kent Minerals and Waste Safeguarding Supplementary Planning Document – Outcome of Consultation and Adoption

Classification: Unrestricted

Past Pathway of Paper: N/A

Future Pathway of Paper:

Electoral Division: Countywide

Summary: The purpose of mineral and waste safeguarding is to ensure that existing and planned arrangements for mineral supply and waste management in Kent are not unduly hindered by other development. The Kent Minerals and Waste Local Plan 2013-30 (KMWLP) includes planning policy which requires developers to consider how proposals might impact on existing mineral resources and mineral supply and waste management infrastructure in Kent.

In April 2017 the Council adopted a Minerals and Waste Safeguarding Supplementary Planning Document (SPD) that set 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.

Following the Council's adoption of the Early Partial Review (EPR) of the Kent Minerals and Waste Local Plan 2013-30 (KMWLP) in 2020, work has been undertaken to update the Supplementary Planning Document. The updated Document provides further clarification on the safeguarding process and in particular reflects changes to Kent Minerals and Waste Local Plan 2013-30 policies DM7 and DM8 which were updated as part of the Early Partial Review to ensure minerals and waste safeguarding is taken into account when allocations for development are proposed in District and Borough Local Plans.

This report sets out the results of a public consultation on a draft of the updated Supplementary Planning Document. It provides a summary of the responses received during the consultation and sets out the revisions proposed to take account of the comments received and to ensure that it best meets the needs of proposed users of the document.

Recommendation(s):

The Environment and Transport Cabinet Committee is asked to:

- (i) note the summary of the comments received on the consultation draft of the updated Supplementary Planning Document and the Council's proposed response to them (see Appendix 1)

- (ii) note the content of the updated Supplementary Planning Document proposed for adoption (see Appendix 2); and,
- (iii) to consider and endorse, or make recommendations to the Cabinet Member for Environment on the proposed decision, attached at Appendix A to:
- adopt the updated Supplementary Planning Document as guidance for the county on mineral and waste safeguarding; and,
 - delegate powers to the Corporate Director for Growth, Environment & Transport to approve any minor modifications to the text of the Supplementary Planning Document, in consultation with the Cabinet Member for Environment, which may be needed (such as formatting changes and typographical errors), in order to publish the Document.

1. Introduction and Background

- 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 delivering sustainable development, and it supports economic growth and our quality of life. It ensures that there is sufficient waste capacity to manage Kent's waste arisings such that the drive to net self-sufficiency is not compromised. It ensures that economic mineral resources are considered when determining planning applications and allocating sites for development within local plans.
- 1.2 In mineral and waste planning, 'safeguarding' is the term used to describe the process of ensuring that:
- Natural economic 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 Minerals and Waste Local Plan 2013-30 (KMWLP)
- 1.3 The Kent Minerals and Waste Local Plan 2013-30 was adopted by Full Council in July 2016. As part of the adopted development plan for Kent, the Kent Minerals and Waste Local Plan 2013-30 also forms planning policy for the Borough and District Councils to be taken into account in their planning application and plan making functions.
- 1.4 Within the Plan, there are a number of policies concerning minerals and waste safeguarding intended to ensure that development does not needlessly sterilise natural mineral resources, or compromise the capacity and operation of minerals and waste management and transportation infrastructure. These policies are set out below:
- Policy CSM5: Land-won Mineral Safeguarding
 - Policy CSM6: Safeguarded Wharves and Rail Depots

- Policy CSM7: 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 DM9: The Extraction of Minerals in advance of Surface Development

1.5 Whilst minerals and waste planning falls within the remit of the County Council, the safeguarding of mineral and waste resources 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 preparing a planning application or promoting sites for potential allocation in a borough/district local plan. The original Supplementary Planning Document was adopted to provide guidance about the process of safeguarding and implementation of the safeguarding policies. It is important to note that the Supplementary Planning Document does not create new policy.

1.6 Unfortunately, experience of implementing the Kent Minerals and Waste Local Plan 2013-30 policies regarding mineral and waste safeguarding revealed ambiguity in the wording of certain of their exempting criteria which was hindering their effectiveness. In particular it was found that the wording allowed development to come forward within Local Plan allocations without consideration of safeguarding which was contrary to the intention of the policy. The Council agreed that modifications were necessary to address this ambiguity and it adopted the modifications in September 2020 as part of those arising from the 'Early Partial Review' of the Kent Minerals and Waste Local Plan 2013-30.

1.7 During the examination into the Kent Minerals and Waste Local Plan modifications, the Inspector considered representations from District and Borough Councils concerned that the changes would hinder their ability to plan for, and consent, sufficient housing in their areas. While the Inspector agreed with the County Council's modifications, to assist the District and Borough Councils, the County Council committed to update the 2017 Supplementary Planning Document to ensure that the guidance provided took account of the modifications and responded to representations to assist in the interpretation of the policies.

2. The Updated Minerals and Waste Safeguarding Supplementary Planning Document

2.1 The main updates to the Supplementary Planning Document are summarised as follows:

- Addition of separate sections which clearly distinguish between the safeguarding process to be applied when Local Plans are prepared and when decisions are taken on planning applications;
- addition of flow charts to help explain how the safeguarding process works;
- addition of explanation of how areas of mineral resources which are subject to safeguarding (known as Mineral Safeguarding Areas) will be reviewed and updated;

- addition of a reference to guidance prepared by the Planning Officers' Society and the Mineral Products Association concerning mineral safeguarding that was published after the original Supplementary Planning Document had been adopted;
- additional emphasis of the need for early consideration of safeguarding matters and consultation with Kent County Council as the Minerals Planning Authority for the area;
- inclusion of economic geology information notes for each District and Borough;
- addition of photographs to illustrate mitigation associated with the safeguarding of mineral wharves;
- updates to the text of the safeguarding policies included in an Appendix to reflect the modifications resulting from the Early Partial Review; and,
- clarifications to the text to ensure the guidance is as clear as possible.

2.2 The updated Supplementary Planning Document is included in Appendix 2.

3. Consultation

3.1 Prior to the drafting of the updated Supplementary Planning Document the Council prepared a note setting out the areas of the Supplementary Planning Document that it considered required updating and invited comments from the District and Borough Councils on this note. This note had taken into account comments made by the District and Borough Councils during the examination of the Early Partial Review. The Council also held a separate workshop for the District and Borough Councils which helped inform the nature of the draft updates.

3.2 A draft of the updated Supplementary Planning Document was originally published for a six week consultation period from 20 November 2020 to 4 January 2021. Following a request from certain District and Borough Councils, the consultation period was extended by four weeks and ultimately closed on 29 January 2021. The draft updated Document was made available via the Council's Consultation Portal and the Kent Minerals and Waste Local Plan webpage. As well as Borough and District Councils across Kent, mineral and waste operators, parish councils, statutory consultees, Members, and planning consultants were directly notified of the consultation.

3.3 A total of 23 representations were received from a range of interested parties including Borough and District Councils, mineral and waste operators/interests, Environment Agency, Historic England, planning consultants and the Port of London Authority. As well as support for the approach to safeguarding and the updates in the Supplementary Planning Document, the following, summarised, points were made by respondents:

- A need for additional information to provide further clarification of how the safeguarding policies would apply including checking that the guidance is consistent with policy requirements e.g. additional information on the extent of information that needs to be submitted at plan making stage vs planning application stage;
- KCC should clarify exactly where mineral development is likely to be acceptable (taking account of viability and environmental acceptability) within Minerals Safeguarding Areas;

- the need for early consultation with operators of safeguarded minerals and waste infrastructure in safeguarded areas should be emphasised;
- infrastructure assessments which take account of the impact of the existing safeguarded minerals and waste infrastructure on proposed development should take into account 'worst case' operating scenarios e.g. 24-hour operation where permitted;
- requests for confirmation that certain allocated sites included in Local Plans, and a specific site proposed for allocation, are exempt from safeguarding requirements;
- concern that the need for mineral extraction might outweigh the need for protection of natural habitat;
- concern with suggestion that Minerals Safeguarding Areas have equal protection from development to areas designated as Areas of Outstanding Natural Beauty and High Flood Risk areas; and,
- suggestion that the system of assessment outlined in Policy DM7 should be considered at the decision-taking stage not at the plan making stage.

3.4 A summary of all the comments received and the Council's proposed response to them is presented in Appendix 1. This indicates where it is considered appropriate for the text of the Supplementary Planning Document to be modified to accommodate comments. The proposed resulting changes are not major, but will improve the clarity and presentation of the document.

3.5 During, and since, the original development of the minerals and waste safeguarding policies in the Kent Minerals and Waste Local Plan 2013-30, many District and Borough Councils have raised concerns about how safeguarding would impact on their ability to plan to meet needs for housing. The concerns have included those related to a lack of available resources and expertise within the Councils to ensure the policies are correctly implemented. The updated Supplementary Planning Document is intended to help address some of these concerns but it should also be recognised that, in some instances, ultimately the need to safeguard minerals resources and management and supply infrastructure will outweigh the need for additional housing, or development will need to come forward in a way which mitigates impacts. This is especially so with mineral wharves as more and more sand and gravel is likely to be won from marine sources in future. This approach fully reflects national planning policy.

4. Next Steps

4.1 Following consideration by Environment and Transport Cabinet Committee, the Cabinet Member for Environment will be asked to adopt the Supplementary Planning Document. Following adoption, stakeholders, including all those who commented on the draft update, will be notified.

4.2 The updated Supplementary Planning Document will be used by the County Council when determining planning applications related to its responsibilities (including proposals for waste management and minerals supply) and by District and Borough Councils when determining applications for non-waste and mineral development. It will also be useful to those preparing planning applications and promoting allocations in local plans.

- 4.3 Prior to final publication of the Supplementary Planning Document, minor changes 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 Cabinet Member for Environment.

5. Financial Implications

- 5.1 The preparation of this updated Supplementary Planning Document fulfils a commitment made by the Council during the independent examination of the modifications to the Kent Minerals and Waste Local Plan 2013-30 which arose from the Early Partial Review. The costs of preparing the Kent Mineral and Waste Safeguarding Supplementary Planning Document and the implementation of the Local Plan's safeguarding policies with Borough and District Councils are met from the Environment, Planning and Enforcement Division's budget.

6. Policy Framework

- 6.1 The updated Supplementary Planning Document, and related policies within the Kent Minerals and Waste Local Plan itself, support the County Council's corporate policies contained within the Council's Strategic Statement 'Increasing Opportunities, Improving Outcomes – Kent County Council's Strategic Statement 2015-2020' and the recently approved Setting the Course - Kent County Council's Interim Strategic Plan 2020, which sets the Council's priorities for the next 2 years. The Supplementary Planning Document will support and facilitate sustainable growth in Kent's economy and support the creation of a high-quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The updated Supplementary Planning Document helps ensure that policies on minerals supply and waste management in national planning policy and guidance will be implemented.

7. Legal Implications

- 7.1 The County Council is required by national planning policy to ensure that local plans safeguard mineral resources and minerals and waste development. The adoption of an updated minerals and waste safeguarding Supplementary Planning Document 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. 204).
- 7.2 There is a risk that, if the Supplementary Planning Document were not updated, the Council's recently modified policy on mineral and waste safeguarding would not be properly implemented.

8. Equalities implications

- 8.1 An equality impact assessment (EQIA) has been completed and no equality implications have been identified. A copy of the assessment is attached at Appendix 3. The earlier work undertaken to modify the related safeguarding policies within the Kent Minerals and Waste Local Plan 2013-30 was accompanied by a separate equality impact assessment.

9. Conclusion

- 9.1 The Kent Minerals and Waste Local Plan includes planning policies intended to ensure that the economic mineral resources and mineral supply and waste management infrastructure in Kent are not needlessly sterilised or adversely impacted by other development. This is necessary to ensure that the mineral supply and waste management needs in Kent can be met in future. As part of the Early Partial Review of the Kent Minerals and Waste Local Plan 2013-30 certain of these policies were updated to ensure they could be implemented effectively.
- 9.2 Guidance on the implementation of the safeguarding policies, set out in the Kent Minerals and Waste Safeguarding Supplementary Planning Document, was adopted in 2017 and needs to be updated to take account of the recent policy changes. Following consultation on a draft updated Document and a workshop with District and Borough Councils, final updated text of the Document has been prepared and is proposed for adoption by the Cabinet Member for the Environment on behalf of the Council.

10. Recommendation(s):

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11. Appendices and background documents

- **Appendix A:** Proposed Record of Decision
- **Appendix 1:** Summary of Comments on the Draft Updated Supplementary Planning Document and the Council's Proposed Response
- **Appendix 2:** Updated Kent Mineral and Waste Safeguarding Supplementary Planning Document for adoption
- **Appendix 3:** Updated Kent Mineral and Waste Safeguarding Supplementary Planning document – Equality Impact Assessment: <https://democracy.kent.gov.uk/ecCatDisplay.aspx?sch=doc&cat=14891>

- Kent Minerals and Waste Local Plan 2013-30 (as updated by the Early Partial Review 2020): https://www.kent.gov.uk/_data/assets/pdf_file/0004/112585/Kent-Minerals-and-Waste-Local-Plan-2013-2030.pdf
- Updated Kent Mineral and Waste Safeguarding Supplementary Planning Document – Consultation Draft, October 2020: <https://democracy.kent.gov.uk/ecCatDisplay.aspx?sch=doc&cat=14891>
- The report to Environment and Transport Cabinet Committee meeting that considered adoption of the original Supplementary Planning Document is available via this link: [Report to Environment and Transport Cabinet Committee 13 March 2017](#)

12. Contact details

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