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Planning Development Plans  
Department for Levelling Up, Housing and Communities  
Planning Directorate  
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**Sent by email to: [planmakingconsultation@levellingup.gov.uk](mailto:planmakingconsultation@levellingup.gov.uk)**

Dear Sir or Madam

### **Introduction**

Government is seeking views on proposals to implement the parts of the Levelling Up and Regeneration Bill which relate to plan-making. The stated intention is to make plans simpler to understand and use, faster to prepare and update, and be more accessible with a strong emphasis on digitalisation to take advantage of new digital technology. The intention is for local plans to be positively shaped by the views of communities about how their area should evolve, and be prepared in a way that communities and other plan users can engage with a new style of local plans more easily, particularly in the early stages of plan making.

**Overall Messages:** Kent CC generally supports the intent of the proposals and particularly welcomes the recognition in the consultation document of the potential requirements for minerals and waste local plans, particularly those within two tier local authority areas. Whilst the plan making requirements have many similarities to those prepared by District and Borough Councils and unitary authorities, there are important distinctions which are worthy of consideration to ensure that important mineral and waste infrastructure is planned for and delivered in a sustainable and timely manner. This consultation response draws attention to those matters, although wishes to highlight separately two key areas - concern regarding the proposed 30 month timescale and that further clarity is required on how existing Sites Plans, which currently form part of the development plan and set out allocations for mineral and waste development, are to be taken forward in the new regime, bearing in mind that they have different adoption dates to the 'core strategy'. This is a matter that is not unique to Kent as a Mineral and Waste Planning Authority in a two-tier local authority area.

In respect of the 30 month timescale, whilst recognising the need to speed up the plan making process, 30 months would not allow sufficient time to procure and prepare the necessary evidence base, to properly engage with the community and other stakeholders and adequately address matters raised by them, or for elected Members to get formal signoff to plan stages. Many of the delays from the current system arise from the need to satisfy legitimate concerns raised by communities and stakeholders. A worthy aspiration of the

proposals is for greater community engagement, but this brings with it an obvious tension on the timescale.

Further consideration is also required as to how adopted Sites Plan that set out land allocations are to be addressed in the new plan making system. The following three paragraphs of our response provides the critical context and background to underline our response to this consultation.

Kent, like many mineral and waste planning authorities, has an adopted Minerals and Waste Local Plan (KMWLP) supported by an adopted Mineral Sites Plan which form the development plan. In Kent, the KMWLP is the core strategy and it includes a strategic allocation for waste and one for minerals. It was originally adopted in 2016 with a handful of updated policies being adopted in 2020 (via a process we refer to as the 'Early Partial Review'). The updated KMWLP commits to preparing a plan that allocates sites for soft sand and sharp sand and gravel (due to data indicating the need for additional sites to maintain the landbank). The Kent Mineral Sites Plan was adopted in September 2020 and fulfils the commitment to allocate sites in the KMWLP by including two allocations for sharp sand and gravel and one allocation for soft sand.

A five year review of the KMWLP was undertaken in 2021 and this identified the need to update certain policies - the process of updating the policies is well underway and there have been several rounds of Reg 18 public consultation. We intend to publish (Reg 19) in early 2024 and hope to adopt in Spring 2025 under the current plan making arrangements. The current work to update the KMWLP has identified a shortfall in the provision of crushed rock and so the Mineral Sites Plan is now also being updated with a view to allocating a crushed rock quarry if possible.

Work on the updated Sites Plan is running behind updating the KMWLP but we hope to achieve submission before June 2025 and so this should be dealt with under the current system. However, should the Sites Plan not be adopted under the current system and as the other parts of the Sites Plan were adopted in 2020, work on updating the Site Plan under the new system would need to commence in October 2025.

This is in accordance with the following included in the consultation "Authorities that have prepared a...minerals and waste plan which is more than 5 years old when the new system goes live (and are not proactively working towards *the 30 June 2025 submission deadline under the current system*) *will be required to begin preparing a new style....minerals and waste plan straight away.*"

It is unclear from the consultation whether Sites Plan can be updated under the new system as a standalone plan or if it can be updated in the form of a new Supplementary Plan. There is uncertainty as to what status the allocations in the adopted Sites Plan would have once the five year period since adoption has elapsed (in September 2025) and whether updating the Sites Plan under the new system would be included in an early 'wave' of local plans being updated. Further detail is set out in the Council's response to Q38.

The Kent County Council's response to the consultation questions is set out below.

Yours faithfully

Stephanie Holt-Castle

Director of Growth and Communities

## **Response of Kent County Council**

### **Question 1: Do you agree with the core principles for plan content? Do you think there are other principles that could be included?**

The Council is generally supportive of the proposed core principles outlined in the consultation - a locally distinct vision, the promotion of sustainable development, the inclusion of locally distinctive policies, the recognition of the importance of design and the inclusion of monitoring measures, a key diagram and digital policy maps. It however recognises that there may be tension between the locally distinct vision, particularly for mineral and waste development and community aspirations which are anticipated in the Bill to have a greater role in plan making in the new arrangements.

In promoting sustainable development it is important that there is a clear definition of sustainable development. There are a number of themes omitted from the consultation principles that could usefully aid the delivery of sustainable development. These include a clear reference to take account of climate change and adaptation, the need to reach net zero and to support a circular economy. The principles should also provide for plans that allow for development to come forward which is of the right type in the right place and at the right time, and in the case of minerals and waste plans take account of the waste hierarchy, the proximity principle and Local Aggregate Assessments (LAAs). The principles should also address the tension between the extraction of finite minerals and sustainable development as currently recognised in the NPPF.

### **Question 2: Do you agree that plans should contain a vision, and with our proposed principles preparing the vision? Do you think there are other principles that could be included?**

We agree that plans should have a local vision and that this should be a thread that runs through the local plan. In developing the vision, there is support for proposed linkages to other corporate strategies. As the new style of plans will rely upon prescribed national core principles and standard templates, it is important that in developing the vision, there is sufficient flexibility in the process so that it enables plans to address the criticism of the current system, that visions 'do not capture the uniqueness of the places they describe or the views of the communities that they serve'. The template needs to have sufficient flexibility so that communities and other stakeholders can identify the core principles that are most important to them and to achieve the community engagement and buy-in that is sought. In two-tier authorities, 'visions' included in non-minerals and waste local plans will need to take account of those 'visions' within the mineral and waste local plan relevant to the area and vice versa. In addition to a vision, there is also a role for objectives to help articulate the vision.

### **Question 3: Do you agree with the proposed framework for local development management policies?**

In principle a system of local and national development management policies is supported as a means of delivering local plans more quickly, although it should be recognised that the majority of time spent preparing current plans relates to sites work, which will not be speeded up with local development management policies. In the absence of the detail of the national development management policies, it is difficult to fully comment on the acceptability. In developing national policies, these need to reflect the requirements of

mineral and waste management development which can have differing needs to other forms of development.

The need to ensure that local development management policies are justified and support the delivery of the local plan vision is supported.

**Question 4: Would templates make it easier for local planning authorities to prepare local plans? Which parts of the local plan would benefit from consistency?**

There is support for templates to aid the plan making process. They should have flexibility to allow for individual local circumstances and to enable local innovation. Where a plan is sound, deviation from a template should be permissible.

Consultation on the templates before they are finalised would be beneficial.

**Question 5: Do you think templates for new style minerals and waste plans would need to differ from local plans? If so, how?**

Yes, templates for mineral and waste local plans should be bespoke and could usefully address the strategic nature of minerals and waste management. In the case of a potential waste template, the different waste types, policies to address each tier of the waste hierarchy, safeguarding, sites and level of provision could be considered. With regard to a minerals template this could usefully address which economic minerals to plan for, approaches to reduce use, recycled and secondary material, primary land won and marine won, the level of provision, safeguarding and sites. In addition, templates related to evidence based documents could have merit.

**Question 6: Do you agree with the proposal to set out in policy that planning authorities should adopt their plan, at the latest, 30 months after the plan preparation process begins?**

No, this timescale is not realistic and will be highly challenging to deliver. The proposed timeframe does not allow sufficient time to prepare the necessary evidence base, to effectively engage with the community, stakeholders and elected representatives and to respond to concerns that are raised, and to complete the necessary governance and examination processes. This is particularly the case with local plans that have a strategic cross boundary dimension (i.e. many mineral and waste plans) where multiple local authorities may be involved. The long gestation period for current local plans is heavily influenced by public and stakeholder engagement and the need to properly respond to concerns raised. Whilst the proposal includes a number of helpful initiatives including the Project Initiation Document (PID) to scope out the local plan work, early engagement and the gateway checks, it is difficult to see how these will enable an adopted plan within 30 months. It could be argued that there is a risk that the scoping and early participation stage could extend to the point that the overall plan making period is, in practice, no shorter than the current one.

The consultation recognises at paragraph 210 that minerals and waste are often 'strategic cross boundary issues'. The proposed alignment test will therefore be key to addressing these strategic issues. In the absence of details of the test and how long it will take to implement the requirements, it is difficult to comment on the implications for delivery within the 30 month timescale.

No consideration appears to have been given to local authority election cycles and governance requirements and the consequences on the plan making timetable which can have a considerable influence on the delivery of a local plan.

Under current arrangements, it is not possible to adopt a plan within one month of the Inspector's report being issued due to governance and the lead-in times for elected members decision to adopt a plan. In the proposed plan process, this could potentially be addressed if the Planning Inspector were to be required to provide a date on which the Inspector's report would be provided. This would allow for the local authority to pre-plan for committee meetings in advance of receiving the Inspector's report to ensure adoption processes are expedited. As the delivery of the plan's timetable is within the gift of the Planning Inspectorate post submission rather than the planning authority, the 30 month plan window may be more practical if it were set to submission, with a further period defined for the examination and adoption processes.

There would be merit in certain defined circumstances for the 30 month clock to stop. For example, a delay in the gateway checks due to a lack of assessors, unforeseen significant events such as a Habitat Regulations matter, changes in relevant national policy, strategy or legislation – i.e. those matters that are outside the control of the planning authority.

Planning authority resources and the lack of experienced Planning Policy Officers will also remain a barrier to delivering Local Plans within the 30 month timescale. Whilst it is recognised that there has been some work on building capability and capacity within local authorities, this has to date been on competitive time limited funds, for junior posts and more directed to development management rather than planning policy. As a result it is not delivering the core experienced policy officers that will be needed to bring about an expedited plan making system. Adequate resources within the Planning Inspectorate will also be required as well as within the statutory stakeholder bodies to ensure that they can respond in a timely and effective manner. Experience of the current plan system illustrates that responses from statutory bodies are often not within the scope of the Regulation 18 timescales due to competing demands, lack of resources and governance arrangements for sign off of another local authority views – particularly important on cross border and strategic matters.

Delivery within the 30 months would only appear likely if the level of evidence to support a local plan is significantly reduced, which seems very unlikely given the tension between those promoting and those opposing development, and the need to have robust information so that a fair and justified decision can be made. It is noted that the aspiration for greater awareness and engagement on plan making matters could add to the timetable.

As well as preparing the Minerals and Waste Plan, the County Council also has the responsibility for engaging with District and Borough Councils in regard to their Local Plans, this includes highway matters, education, waste management, flood risk and heritage for example. The County Council is concerned that by reducing the time taken to adopt a Local Plan, that this will reduce the time for meaningful engagement to resolve complex local and strategic planning issues and also to ensure that growth is supported by the appropriate infrastructure. There must be appropriate time for meaningful engagement.

**Question 7: Do you agree that a Project Initiation Document will help define the scope of the plan and be a useful tool throughout the plan making process?**

Yes, this could be a useful tool in the plan-making process effectively scoping the local plan work and the resources required.

**Question 8: What information produced during plan-making do you think would most benefit from data standardisation, and/or being openly published?**

There could be value in the standardisation of data. The following datasets could be beneficial: urban areas in adopted plans which would assist in the case of Kent mineral safeguarding matters, details of mineral and waste safeguarding interests, mineral resources, mineral need assessment, waste capacity and type data, biodiversity interests. Consideration will need to be given to licensing and accessibility matters.

**Question 9: Do you recognise and agree that these are some of the challenges faced as part of plan preparation which could benefit from digitalisation? Are there any others you would like to add and tell us about?**

Yes. There are issues around data and GIS licencing, costs and the time required to obtain the necessary data licences which need to be factored into any digital roll out. In addition, there is a lack of GIS skills within the local authority.

There needs to be clarity as to what qualifies as a 'duly made' representation, bearing in mind the consultation states that regulations will "enable the submissions of representations in a form which maintains and strengthens accessibility for communities, but makes it easier for planning authorities to process". This implies that comments can only be made through a digital template. The new system must avoid the need for planning teams to have to copy across comments from one format to another which will have potentially significant time implications. For example, significant (20,000+) comments on the Council's current Sites Plan consultation came via a national campaign and were received into the authority's 'junk' email rather than the dedicated email or consultation hub. This resulted in the need to transfer the representations individually into the corporate system. With the power of social media campaigning, this experience we anticipate could become more and more the norm.

The proposed system should also recognise that as part of the plan making process, third parties will also prepare evidence that will need to be considered as part of the examination. Consideration needs to be given as to how this can be digitised. Should this be prepared to a specified format and if that is the case, how is material that falls outside that format to be managed? A reliance upon greater digitisation raises accessibility and equality considerations which will need to be satisfactorily addressed.

Plan making authorities will face significant additional costs in setting up the digital toolkits set out in the consultation - this will need to be supported by increased funding from government.

**Question 10: Do you agree with the opportunities identified? Can you tell us about other examples of digital innovation or best practice that should also be considered?**

Yes – in principle the opportunities identified could assist in plan production.

**Question 11: What innovations or changes would you like to see prioritised to deliver efficiencies in how plans are prepared and used, both now and in the future?**

The consultation refers to considerable work that has already been undertaken. The benefits of this work and early pilots should be shared to minimise duplication.

**Question 12: Do you agree with our proposals on the milestones to be reported on in the local plan timetable and minerals and waste timetable, and our proposals surrounding when timetables must be updated?**

In principle, the Council is generally supportive of the proposal to replace the Local Development Scheme (LDS) with a simpler plan timetable. This would allow for greater flexibility and assist in responding to change and unforeseen circumstances in a more responsive manner. The proposed requirement however to update the timetable every six months would seem unnecessary and onerous particularly if there have been no major changes to the timetable.

**Question 13: Are there any key milestones that you think should automatically trigger a review of the local plan timetable and/or minerals and waste plan timetable?**

The proposed 3 gateways would seem to be key milestones that could prompt a review of the plan timetable, particularly if they were to identify that further work was necessary or if the gateway checks were delayed. The system should also provide for flexibility for the local authority to review the timetable for legitimate reasons that occur outside of the planning authority's control, i.e. changes to Government policy during the plan production process and local elections which have a bearing on the emerging local plan. Similarly, they could be reviewed on a risk basis if something was identified that if it were to occur would have a significant impact upon the timetable.

**Question 14: Do you think this direction of travel for national policy and guidance set out in this chapter would provide more clarity on what evidence is expected? Are there other changes you would like to see?**

In principle, the Council welcomes the setting of national policy that provides clearer expectations for a plan's evidence base and how it will be treated through examination. It also welcomes the commitment to further consultation on this matter. In the absence of the detail, it is difficult to comment at this time. In preparing the further information, consideration should be given to how evidence prepared by third parties during the plan making process will be considered and presented. Should this be provided to a specified format. The consultation document appears drafted from a plan making authorities' perspective.

**Question 15: Do you support the standardisation of evidence requirements for certain topics? What evidence topics do you think would be particularly important or beneficial to standardise and/or have more readily available baseline data?**

There could be merit in the standardisation of some evidence base documents for mineral and waste development. Such consistency would allow easier preparation of regional and national assessments, and potentially assist in greater engagement and understanding of the data. At examination, there could be time benefits as Inspectors become familiar with the dataset and presentational style. Waste examples could include the standardisation of Waste Needs Assessments covering baseline assumptions, forecasting, existing assessment of capacity, identification of gaps and common assumptions, and the Environment Agency's Waste Data Interrogator to support the wider needs of plan making. In respect of minerals there could be a standardised tool for calculating Local Aggregate Assessment (LAA) data in respect of landbanks and based upon certainty of the data. The latter could be achieved with a link to monitoring requirements and an obligation on operators to provide annual data.

**Question 16: Do you support the freezing of data or evidence at certain points of the process? If so which approach(es) do you favour?**

In principle there is support for freezing evidence during the plan preparation process. The need to respond to changing circumstances is a contributory factor in the time it takes to deliver existing plans. The Council favours an option whereby evidence should be agreed at the first gateway assessment, unless there are overwhelming reasons not to, and frozen again at the equivalent Reg 19 stage (plan submission). This will allow the local plan authority to progress the plan making with confidence. To support the delivery of a 30 month timescale there will need to be clear guidance on what level of evidence is essential, and what is superfluous to support the local plan. There also needs to be recognition that the view of the examining Inspector may vary, and that evidence is often prepared to address representations. In determining this aspect of the new system, local authorities are likely to continue to be risk averse in preparing the evidence base if the examining Inspector is likely to seek significant new evidence to be provided at the examination stage. At the examination stage, the local authority needs to have the ability to provide evidence to support statements made and/or to assist the examination. It is not clear from the consultation documentation if that is the intention.

**Question 17: Do you support this proposal to require local planning authorities to submit only supporting documents that are related to the soundness of the plan?**

Yes, it is noted that this is also the current position.

**Question 18: Do you agree that these should be the overarching purposes of gateway assessments? Are there other purposes we should consider alongside those set out above?**

The Council agrees in principle with the purposes of gateway assessments and considers that they could support the early resolution of possible soundness issues. The Council considers that bespoke mineral and waste gateway checks will be required with the gate keeper having a robust understanding and experience of mineral and waste planning matters. There has been some suggestion that this could be another Mineral and Waste planning authority. Whilst this suggestion has some merit, there are questions around resources and potential conflicts of interest. To ensure consistency of advice, it would be beneficial for the same gatekeeper to advise at each stage. If that is not possible, then at the very least the 3rd gatekeeper (and if needed any repeat of Gateway 3) should be the Inspector appointed to examine the plan. This will bring benefits that should aid the swifter delivery of an adopted plan.

In terms of who should take part in the gateway assessments, there may be merit depending upon the issues raised for involving key stakeholders as part of the 2<sup>nd</sup> gateway.

**Question 19: Do you agree with these proposals around the frequency and timing of gateways and who is responsible?**

The council is supportive of gateway assessments where they have the potential to improve the process and identify concerns that may lead to an unsound plan early in the process. However as advised above, there are concerns regarding the consistency of advice if different personnel are involved. Where gatekeepers identify deficiencies to be addressed, they must provide clear written guidance and a timeline as to the work that needs to be completed.



**Question 20: Do you agree with our proposals for the gateway assessment process, and the scope of the key topics? Are there any other topics we should consider?**

The topics for consideration should be driven by the circumstances of the local plan. The suggested limit to 5 issues would appear arbitrary.

**Question 21: Do you agree with our proposal to charge planning authorities for gateway assessments?**

No, this is a new burden for authorities. Given current local authority finances and the discretionary nature of checks 1 and 2, there may be funding issues that minimise take up.

**Question 22: Do you agree with our proposals to speed up plan examinations? Are there additional changes that we should be considering to enable faster examinations?**

In principle the Council agrees with the proposals to speed up plan examinations. The 'duty to cooperate', particularly on cross boundary issues, is a contributory factor for the time that it takes to prepare and adopt a local plan and for a number of plans being found unsound. The consultation is silent on the replacement alignment policy. In the absence of the new policy, it is difficult to comment on the time implications of plan delivery.

As the new plan making system becomes operational, there will be a continuous rolling cycle of plan reviews and updating policy. It would be helpful for guidance setting out evidence requirements for those parts of a plan that are to remain unchanged and how they are to be examined in the future.

**Question 23: Do you agree that six months is an adequate time for the pause period, and with the government's expectations around how this would operate?**

Yes, but only where the matter that has triggered the pause is within the gift of the planning authority to resolve. For example, if the cause relates to a matter that requires input from other stakeholders or those making representations and the 6 month deadline cannot be met because of 3<sup>rd</sup> party interests, it would be unreasonable for the 6 month pause to be applied. To address this, there should be discretion in the period set.

**Question 24: Do you agree with our proposal that planning authorities should set out their overall approach to engagement as part of their Project Initiation Document? What should this contain?**

Yes, but as adopted Statement of Community Involvements (SCI) provide engagement details for plan making and development management, clarification is required as to how the development management elements will be taken forward. In terms of local plan engagement this needs to be proportionate given the circumstances of the plan.

**Question 25: Do you support our proposal to require planning authorities to notify relevant persons and/or bodies and invite participation, prior to commencement of the 30 month process?**

Yes this seems reasonable as the delivery of a quicker plan making system will be dependent upon timely responses from the relevant persons and bodies. Of the consultation options, the Council favours the option as set out in paragraph 146 for ongoing informal engagement with statutory bodies to define early issues, rather than a fixed timescale. In light of competing demands on stakeholder's time and expertise, consideration will need to

be given as to how best to secure timely engagement from statutory bodies and the consequences of not engaging at the early stages.

In the case of mineral and waste matters, there would be benefit in recognising the role that regional fora has i.e. Aggregate Working Parties (AWPs) and the Waste Technical Advisory Bodies (WTABs) in potentially shaping places and supporting evidence.

**Question 26: Should early participation inform the Project Initiation Document? What sorts of approaches might help to facilitate positive early participation in plan-preparation?**

The PID appears to be a project management tool setting out the processes to follow, resourcing and governance etc which do not naturally lend themselves for community engagement. To encourage community responses and early shaping of the plan, it may be more useful to identify the community engagement elements around a draft vision and outcomes. Typically, communities are less likely to engage with a local plan unless they can identify some direct impact. To achieve the wider community buy-in that the proposed plan making arrangements aspire to, this community view will need to be addressed.

**Question 27: Do you agree with our proposal to define more clearly what the role and purpose of the two mandatory consultation windows should be?**

Yes, clear guidance would be beneficial for all those involved in the plan making process.

**Question 28: Do you agree with our proposal to use templates to guide the form in which representations are submitted?**

Yes. It would be beneficial to see these in draft before finalisation and for local authorities to maintain some flexibility to address local circumstances. To support the delivery of swifter plan adoption, the format for making representations will need to balance accessibility considerations whilst avoiding the need for the duplication of processes where representations are submitted in alternative formats.

**Question 29: Do you have any comments on the proposed list of prescribed public bodies?**

It is noted that the proposed list of prescribed public bodies in the consultation appears out of date in paragraph 159 in respect of LEPs and National Highways. In two tier authority areas, a requirement to engage with the respective County Council and District/Borough Councils should also be included.

In the case of mineral and waste development, in addition to including authorities where relevant in Scotland and Wales, there should also be some discretion whether to engage with all parties in the table, as is implied for some plans by the use of 'where relevant'. For example, the need to engage with Integrated Care Boards, the National Health Service Commissioning Board and Sport England on county matter plans. These bodies are unlikely to have an interest in mineral and waste plans.

It is recognised that the prescribed public bodies will hold valuable information and technical expertise to assist with plan making, but many are currently under resourced and may be unable to respond to local plan consultations. For the prescribed bodies to be able to engage positively with plan making authorities, there needs to be a planning resource within each body with a clear duty to support the local plan process.

**Question 30: Do you agree with the proposed approach? If not, please comment on whether the alternative approach or another approach is preferable and why.**

The requirement would be a useful tool where there is no engagement with the plan making authority and that body holds expertise and data that is fundamental to the emerging plan work. It is not clear from the consultation, the consequences of serving the notice and clarification could usefully be provided. Some form of mechanism is required if the 30 month timescale is to be met.

**Question 31: Do you agree with the proposed requirements for monitoring?**

The Council supports in principle a two staged approach to monitoring - a light touch annual return on a number of key indicators and a more detailed submission every 4 years post adoption. The latter could inform the local plan review work. A template would be a suitable method of data capture and assist in wider data capture referred to elsewhere in the consultation.

**Question 32: Do you agree with the proposed metrics? Do you think there are any other metrics which planning authorities should be required to report on?**

Yes in respect of monitoring for Minerals and Waste planning matters.

In respect of possible other metrics for minerals and waste planning matters, consideration could be given to the impact upon industrial minerals, safeguarded infrastructure and the impact of circular economy policies both in mineral and waste plans and broader local plans.

**Question 33: Do you agree with the suggested factors which could be taken into consideration when assessing whether two or more sites are 'nearby' to each other? Are there any other factors that would indicate whether two or more sites are 'nearby' to each other?**

Based upon the consultation material, it is reasonable that proximity should be the main determining factor. However, depending upon how Mineral and Waste Sites Plans (see introduction above and the Council's response to Q38 below) are to be taken forward in the new plan making arrangements, then these factors may need to be reconsidered.

**Question 34: What preparation procedures would be helpful, or unhelpful, to prescribe for supplementary plans? e.g. Design: design review and engagement event; large sites: masterplan engagement, etc.**

It would be helpful to understand the expectations for consultation and the criteria they will be examined against.

**Question 35: Do you agree that a single formal stage of consultation is considered sufficient for a supplementary plan? If not, in what circumstances would more formal consultation stages be required?**

In the event that mineral and waste sites plans, which currently allocate sites in accordance with the adopted strategy plan, are to be reviewed in future as a supplementary plan, then the supplementary plan should require more than a single stage of consultation. Clarification should also be given as to the weight that supplementary plans will carry compared with local plans and SPDs, and the differences between local plans and supplementary plans.

**Question 36: Should government set thresholds to guide the decision that authorities make about the choice of supplementary plan examination routes? If so, what thresholds would be most helpful? For example, minimum size of development planned for, which could be quantitative both in terms of land use and spatial coverage; level of interaction of proposal with sensitive designations, such as environmental or heritage.**

Specifying thresholds for determining whether a supplementary plan would be examined by an independent examiner of the authority's choosing or a Planning Inspector appointed by the Secretary of State would be helpful. A supplementary plan that allocates sites that have not been assessed in a local plan should be examined by a Planning Inspector.

**Question 37: Do you agree that the approach set out above provides a proportionate basis for the independent examination of supplementary plans? If not, what policy or regulatory measures would ensure this**

Depending upon how Mineral and Waste Sites Plans (see introduction above and the Council's response to Q38 below) are to be taken forward in the new plan making arrangements, then these factors may need to be reconsidered.

**Question 38: Are there any unique challenges facing the preparation of minerals and waste plans which we should consider in developing the approach to implement the new plan-making system?**

The Council draws attention to its response to the other consultation questions which also apply from a minerals and waste plan perspective. The issue set out below, is however unique to mineral and waste planning and is typical across a number of two tier planning authorities. The public consultation is silent on how Mineral and Waste Sites Plans which form part of the current development plan, allocate sites in accordance with the adopted strategy plan and have a different adoption date and therefore review date are to be addressed in the new plan making system. Supplementary plans are potentially suggested as a way forward, although it is noted from the consultation documents that these are not intended to be used routinely, are for exceptional and unforeseen circumstances, and limited to a single or two neighbouring sites. In the case of an area (county) wide basis they appear limited only to set out a design code. Mineral and Waste Sites Plans do not meet such criteria.

**Clarification is therefore required as to how adopted Mineral and Waste Sites Plans that set out land allocations are to be addressed in the new plan making system, whether they can be updated under the new system as a standalone plan or if they can be updated in the form of a new supplementary plan. If not, what options are available to provide a sites allocation plan so that development is plan led, rather than tested via planning application once a case of need is established in the adopted strategy plan.**

**Clarification is also sought to address the uncertainty as to what status the allocations in adopted Sites Plan would have, once the five year period since**

**adoption has elapsed and whether updating the Sites Plan under the new system would be included in an early 'wave' of local plans being updated.**

**For those mineral and waste planning authorities, it is essential to confirm that standalone plans which allocate sites can be prepared and policies in Plans which are more than 5 years old still form part of the Development Plan (and take primacy over the NPPF) unless it can be demonstrated that they are not consistent with the NPPF. In the absence of this, sites will come forward via planning application rather than the intended pan led system.**

Further details of the case in Kent is set out below to illustrate the matter:

Kent, like many mineral and waste planning authorities has an adopted Minerals and Waste Local Plan (KMWLP). This is the core strategy and it includes a strategic allocation for waste and one for minerals. It was originally adopted in 2016 with a handful of updated policies being adopted in 2020 (via a process we refer to as the 'Early Partial Review'). The updated KMWLP commits to preparing a plan that allocates sites for soft sand and sharp sand and gravel (due to data indicating the need for additional sites to maintain the landbank). The Kent Minerals Sites Plan was adopted in September 2020 and fulfils the commitment to allocate sites in the KMWLP by including two allocations for sharp sand and gravel and one allocation for soft sand.

A five year review of the KMWLP was undertaken in 2021 and this identified the need to update certain policies - the process of updating the policies is well underway and there has been several rounds of Reg 18 public consultation. We intend to publish (Reg 19) in early 2024 and hope to adopt in Spring 2025 under the current plan making arrangements. The current work to update to the KMWLP has identified a shortfall in the provision of crushed rock and so the Minerals Sites Plan is now also being updated with a view to allocating a crushed rock quarry if possible. Assuming the adoption date is 2025, the new KMWLP will be due for a review under the new style of plan making in 2030.

Work on the updated Sites Plan is running behind updating the KMWLP but we hope to achieve submission before June 2025 and so this should be dealt with under the current system. However, should the Sites Plan not be adopted under the current system and as the other parts of the Sites Plan were adopted in 2020, work on updating the Site Plan under the new system would need to commence in October 2025.

This is in accordance with the following included in the consultation "Authorities that have prepared a....minerals and waste plan which is more than 5 years old when the new system goes live (and are not proactively working towards the 30 June 2025 submission deadline under the current system) will be required to begin preparing a new style....minerals and waste plan straight away."

This creates the following position:

On the assumption that the Council's current local plan work to update the KMWLP is adopted as anticipated in 2025 under the current plan making arrangements, the

Council will have an up to date local plan that sets the criteria for considering planning applications, including an agreed position on aggregate need which determines whether there is a requirement for any additional site allocations. Importantly of note is that the Plan we are seeking to submit and adopt in 2025 is not identifying a need for any further sites for soft sand and sharp sand and gravel - i.e. the existing Mineral Sites Plan 2020 is still sound in respect of these minerals and needs no further allocations at least until the next 5 year review of the KMWLP (i.e. 2030).

In respect of hard rock as advised above, we are currently testing the acceptability of a site for allocation and if acceptable anticipate an allocation being made in an update of the Sites Plan under the current plan arrangements, with adoption in late 2025/2026.

### **Potential way forward**

To widen the scope of supplementary plans so area wide plans can address site allocations for mineral and waste matters. Further consideration will need to be given to the engagement and examination processes, given community interest in the site allocation process. Alternatively the transition arrangements could be drafted to allow for a sufficient period for Sites Plans to be in force until the mineral and waste 'strategy' plans are reviewed and examined, with a requirement that sites plans are to be embedded in the 'strategy' plans from the next review period.

#### **Question 39: Do you have any views on how we envisage the Community Land Auctions process would operate?**

No

#### **Question 40: To what extent should financial considerations be taken into account by local planning authorities in Community Land Auction pilots, when deciding to allocate sites in the local plan, and how should this be balanced against other factors?**

No comment

#### **Question 41: Which of these options (for transitional arrangements) should be implemented, and why? Are there any alternative options that we should be considering?**

Subject to the resolution of how mineral and waste sites plans are to be resolved in the new arrangements, the Council does not expect being in the first wave, with an anticipated adopted Plan in 2025. Of the suggested options, preference is for the option that gives later waves a 'backstop' by which they have to commence, but allow them to start earlier if they want to.

In light of the site plan matter raised in respect of Q38, transitional arrangements that make provision for the temporary retention of these site allocation plans until allocations can be incorporated into the review of the overarching 'strategy' Plan should be considered.

#### **Question 42: Do you agree with our proposals for saving existing plans and planning documents? If not, why?**

Existing local plans including Mineral and Waste Sites Plans (which allocate sites) should remain in force until the planning authority adopts a new-style local plan that updates both, at which point they will automatically cease to have effect. I refer to Q38 above.

**Question 43: Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?**

The proposed plan making arrangements have a strong digital emphasis. This raises accessibility and equality considerations that will need to be satisfied.