

**From:** Peter Oakford – Deputy Leader with delegated authority for Minerals and Waste Local Plan Matters

Barbara Cooper, Corporate Director for Growth, Environment and Transport

**To:** Environment and Transport Cabinet Committee – 30 November 2017

**Decision No:** 17/00111

**Subject:** Kent Minerals and Waste Local Plan 2013 – 30 Partial Review, Kent Minerals Sites Plan and revised Local Development Scheme

**Classification:** Unrestricted

**Past Pathway of Paper:** N/A

**Future Pathway of Paper:** Cabinet Member Decision

**Electoral Division:** Countywide

**Summary:**

This report provides an update and presents additional material to deliver the adopted Kent Minerals and Waste Local Plan 2013-30 (KMWLP). The KMWLP commits the Council to preparing a Minerals Sites Plan and a Waste Sites Plan, which allocate land considered suitable for minerals and waste development.

As part of the work to develop these Sites Plans, a review has been undertaken to confirm the requirements for minerals and waste in Kent. The reassessment of future waste capacity requirements in Kent suggests that a Waste Sites Plan is no longer required; as a result, a Partial Review of the KMWLP is required. In addition, implementation of KMWLP policies concerning mineral and waste safeguarding over the last year has revealed that modifications are necessary to improve their effectiveness. Work on the Minerals Sites Plan has resulted in the identification of sites potentially suitable for allocation. In addition, the report proposes modifications to improve the effectiveness of the adopted minerals and waste safeguarding policies. In order to proceed, public consultation on these matters is now required.

An updated Local Development Scheme is proposed to reflect the Partial Review, as well as changes to the programme and timetable concerning preparation of the Sites Plans.

**Recommendation(s):**

The Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Member responsible for the Minerals and Waste Local Plan on the proposed decision:

- (i) to undertake public consultation on the 'Minerals Sites Plan – Options 2017' document and associated Sustainability Appraisal Scoping Report in line with Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012;

- (ii) to undertake a Partial Review of the Kent Minerals and Waste Local Plan 2013-30 concerning future requirements for waste management and mineral and waste safeguarding;
- (iii) to undertake associated public consultation on the Partial Review document and the associated Sustainability Appraisal Scoping Report; and
- (iv) to note the contents of an updated Local Development Scheme (including revised timetable) to reflect the Partial Review and changes to the programme and timetable concerning preparation of the Sites Plan.

## **1. Introduction**

- 1.1 The Kent Minerals and Waste Local Plan 2013-30 (KMWLP) was adopted by the County Council in July 2016 as part of the Council's statutory responsibility to plan for future minerals supply and waste management within Kent. Preparation of such a plan is also consistent with the National Planning Policy Framework (NPPF) and the National Planning Policy for Waste (NPPW).
- 1.2 The adopted KMWLP includes the County Council's strategy and policy framework for minerals and waste development in Kent which includes future capacity and supply requirements. The KMWLP commits the Council to identifying and allocating land considered suitable for minerals and waste development in a subsequent Waste Sites Plan and Minerals Sites Plan.

## **2. Mineral Sites Plan**

- 2.1 Following the adoption of the KMWLP, the County Council commenced work on the accompanying Mineral Sites Plan which will allocate sites in Kent for the types of minerals development needed to fulfil the vision and objectives of the KMWLP. This work included a review as to whether the adopted policies remain robust for the Mineral Sites Plan work.
- 2.2 Work began with a "Call for Sites" in late 2016, which invited nominations (e.g. from landowners and potential minerals operators) for sites to be considered for allocation to meet the KMWLP mineral supply requirements. All those parties that had previously had an interest in the Minerals and Waste Local Plan work were notified of the Call for Sites and invited to nominate sites as well as comment on the Site Selection Methodology. This included residents who have previously expressed an interest in minerals and waste plans in Kent, landowners, minerals and waste operators, local businesses, statutory organisations, local interest groups, parish, borough and district councils, councillors and others.
- 2.3 The Call for Sites, along with a draft methodology for site selection and assessment, had previously been agreed by the Cabinet Member for Planning, Highways, Transport and Waste in December 2016 following consideration of the matter at Environment and Transport Cabinet Committee in November 2016. The site selection methodology has been updated and a separate Site Evaluation Document sets out how the sites were initially assessed and shows the results of the assessment.

For a site to be considered a Mineral Site Option it had to:

- (i) **Align with the objectives of the KMWLP:** The site must be able to provide minerals in accordance with the future needs for minerals identified in the KMWLP.
- (ii) **Be justified:** The site must represent a suitable development opportunity based on the opportunities and constraints associated with its location.
- (iii) **Be deliverable:** Any potential environmental and amenity impacts resulting from operations at the site can be practically mitigated and the landowner is content for minerals development to take place.

2.4 As well as generally inviting nominations for sites, the Council also took a targeted, proactive approach whereby landowners with land identified in previous Minerals Local Plans with potentially economic mineral deposits were contacted and invited to participate in the process. This included inviting those parties that had responded to the previous 'Call for Sites' in 2010, mineral and waste operators, the trade bodies and agents known to represent minerals and waste interests in the County. This exercise generated interest and several sites were nominated as a result.

2.5 In total, some 3000 parties were contacted to contribute to the Call for Sites exercise which was also advertised on the County Council's website, and copies of all relevant documents were sent to Kent's main library network.

2.6 In response to the Call for Sites, 19 sites were nominated for consideration, nine of which have been assessed as 'Options,' i.e. sites that are considered potentially suitable for allocation in the Kent Minerals Sites Plan. In summary, these sites relate to two sites for soft sand extraction and seven sites for the extraction of sharp sands and gravel. Full details of these sites can be found in the supporting document 'Kent Minerals Sites Plan – Options' (see Appendix 1).

2.7 As well as being the subject of public consultation, the site options will be subject to detailed technical assessment (including a Sustainability Appraisal) which will confirm their suitability for allocation.

2.8 Public consultation is to be undertaken on the Kent Minerals Sites Plan Options 2017 consultation document in line with Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012, and the County Council's Statement of Community Involvement. This will inform the final selection of sites for inclusion in the emerging Minerals Sites Plan that the County Council will be asked to agree in 2018.

### **3. Early Partial Review of the KMWLP including Need for a Waste Sites Plan**

3.1 The adopted KMWLP identified a shortfall in waste management capacity over the Plan period for the following types of waste management: waste recovery (energy from waste and organic waste treatment), hazardous waste, and the disposal of dredgings. To improve certainty concerning the provision of the required capacity, policies CSW7, CSW8, CSW12 and CSW14 commit the County Council to allocating sites suitable for accommodating waste facilities in a Waste Sites Plan. Policy CSW4 sets the strategy context for waste management capacity.

3.2 In preparation for the Waste Sites Plan, it was necessary to consider whether the requirements for additional waste management capacity, as identified in the KMWLP were still robust, in order to ensure that the appropriate amount of new capacity is

planned for. A review of the future needs for waste management facilities in Kent was therefore undertaken.

- 3.3 A key driver for the review of waste requirements was the implementation of a planning permission for a significant new waste facility at Kemsley which meant that the amount of existing waste management capacity used to inform the approach in the KMWLP was no longer robust. Planning permission was granted in 2012 for the Kemsley Sustainable Energy facility, which would provide capacity for around 500,000tpa of non-hazardous waste recovery. During the preparation of the KMWLP, there was considerable uncertainty over whether the facility would be built and so it was considered prudent not to factor this into the assessment of future capacity requirements. In August 2016, shortly after the adoption of the KMWLP, work commenced on the construction of the Kemsley facility, clearly indicating that the capacity would in fact be realised, substantially eliminating the capacity shortfall identified in the KMWLP of 562,500tpa.
- 3.4 The adopted KMWLP also identified that sites would be identified in a Waste Sites Plan for hazardous waste (policy CSW12) and for the disposal of dredgings (policy CSW14). Notwithstanding this policy support, the 'Call for Sites' did not reveal any need or support from industry including the Port of London Authority for the allocation of specific sites.
- 3.5 In terms of additional organic waste treatment capacity, the review of waste requirements concluded that there is a continued need for some additional capacity but it is considered that the Plan's policy is sufficiently supportive, such that the identification of specific sites to provide any additional certainty that development will come forward is not justified.
- 3.6 The review of waste requirements therefore indicates that there is insufficient justification for a Waste Sites Plan and therefore changes to a number of the adopted KMWLP waste policies and explanatory text are required to remove the commitment to identify sites within a separate Waste Sites Plan. This will ensure that there is no over-supply of capacity. A change to adopted policies can only be realised via a Partial Review of the KMWLP which will be subject to public consultation and independent examination.
- 3.7 In reviewing the need for a Waste Sites Plan, a number of other considerations have also been identified that support changes being proposed to the adopted waste policies. The review work identified that the recycling and composting capacity requirement presented in adopted policy CSW7 are based upon targets that are now considered low and unambitious when compared with those adopted in recent times for other authorities in the South East. As part of the Partial Review of the Plan, it is therefore considered more appropriate to apply higher diversion targets and incorporate these into a revised waste policy CSW4.
- 3.8 The supporting document 'Kent Minerals and Waste Local Plan 2013-2030 Partial Review 2017' consultation document (see Appendix 2) explains and sets out the proposed revised wording of the waste policies CSW4, CSW7, CSW8, CSW12, and CSW14, as well as supporting text

#### *Minerals and Waste Safeguarding*

- 3.9 Given the need for an early Partial Review (as described above), the opportunity has also been taken to consider whether there are other elements of the KMWLP

which may benefit from amendment in light of 12 months' experience of implementing its policies. Generally, is it considered that the KMLP is performing as intended; however, one matter has arisen in relation to the safeguarding of mineral resources and minerals and waste management infrastructure. Implementation of the safeguarding policies DM 7 and DM 8 has revealed a significant ambiguity that means the policies are not being implemented as intended.

- 3.10 Amongst other aims, the intention of these safeguarding policies was to ensure that development on sites for non-mineral development (i.e. housing) allocated in a Borough or District Local Plan would be exempt from the KMWLP's safeguarding provisions *if* the need to safeguard any mineral resource underlying the site, and/or proximate minerals and waste infrastructure, had been assessed and factored into the decision to allocate the sites. In practice, however, there have been occasions where the policies are being interpreted to exclude *any* site allocations in adopted development plans from the safeguarding process, *regardless* of whether minerals and waste safeguarding was considered during the site allocation process. This is not the intention of the policies, nor national policy guidance, and it has the potential to undermine the effectiveness of these policies. The Partial Review which is proposed in this report provides the opportunity to address this matter.
- 3.11 The supporting document 'Kent Mineral and Waste Local Plan 2013-2030 Partial Review 2017' consultation document (see Appendix 2) sets out the proposed revised wording of the policies DM7 and DM8, as well as supporting text to ensure that the safeguarding intention of the KMWLP is effective.

#### 4. Revised Local Development Scheme

- 4.1 The Local Development Scheme sets out the County Council's programme for preparing minerals and waste planning documents. The current Local Development Scheme, which was adopted in December 2016, needs to be updated to reflect the position above. The revised timetable for the preparation of the Minerals Sites Plan and KMWLP Partial Review, to be included in the Scheme, is set out in the table below.

Stage	Dates
Second Call for Sites	November 2016 - January 2017
Minerals Sites Options and KMWLP Partial Review Consultation (Reg 18)	December 2017 – March 2018
Pre-Submission Plan Consultation (Reg 19)	October - November 2018
Submission	January 2019
Independent Examination Hearing	April - May 2019
Inspector's Report	October 2019
Adoption	December 2019

- 4.2 The draft updated Local Development Scheme is included as Appendix 3.

## **5. Financial Implications**

- 5.1 The costs of preparing the Kent Mineral Sites Plan Options and the early Partial Review of the MWLP are included in the Environment, Planning and Enforcement Division's budget.

## **6. Policy Framework**

- 6.1 The Kent Mineral Sites Plan and the policies within the KMWLP 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'. The Minerals Sites Plan will support and facilitate sustainable growth in the Kent 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.

## **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.
- 7.2 The County Council is also required by national planning policy to ensure that local plans promote sustainable minerals and waste development. The early partial review will play an important role in ensuring that minerals and waste development in Kent is in line with national planning policy.
- 7.3 There is an expectation by Government (DCLG) 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 DCLG will step in as the plan making authority, reducing local accountability.

## **8. Equalities implications**

- 8.1 An equality impact assessment has been completed and no equality implications have been identified. A copy of the assessment is attached at Appendix 4.

## **9. Conclusions**

- 9.1 The Town and Country Planning legislation requires the County Council to prepare a development plan setting out how mineral and waste planning matters will be considered in Kent. The KMWLP adopted in July 2016 sets out the overarching strategy and vision until 2030 and commits the County Council to preparing Mineral and Waste Sites Plans that allocate individual sites for development that align with the KMWLP strategy.

- 9.2 To progress this work, the following activities have been undertaken:

- (i) A 'Call for Sites' which has resulted in the identification of nine potentially suitable sites for mineral extraction for a Minerals Sites Plan;
- (ii) A review of the evidence base to support the Kent Waste Sites Plan that suggests that a separate Waste Sites Plan is no longer justified and a Partial Review of the KMWLP is required to reflect this;
- (iii) A review of the implementation of the KMWLP policies has revealed the need for modification of policies concerning minerals and waste safeguarding in order to ensure their effectiveness; and

- (iv) A revised Local Development Scheme has been drafted reflecting the activity outlined above, including a revised timetable for preparing planning documents.

9.3 Public consultation is now proposed to seek the views of the community and interested parties on the potential mineral sites and the proposed modifications in the Partial Review of the KMWLP, so as to aid the next stages of the plan making process. It is proposed that subject to Cabinet Member agreement, this would take place over a 12-week period between December 2017 and March 2018.

#### **Recommendation(s):**

The Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Member responsible for the Minerals and Waste Local Plan on the proposed decision:

- (i) to undertake public consultation on the 'Minerals Sites Plan – Options 2017' document and associated Sustainability Appraisal Scoping Report in line with Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
- (ii) to undertake a Partial Review of the Kent Minerals and Waste Local Plan 2013-30 concerning future requirements for waste management and mineral and waste safeguarding;
- (iii) to undertake associated public consultation on the Partial Review document and the associated Sustainability Appraisal Scoping Report; and
- (iv) to note the contents of an updated Local Development Scheme (including revised timetable) to reflect the Partial Review and changes to the programme and timetable concerning preparation of the Sites Plan.

## **11. Background Documents**

### **Appendix 1:**

[Kent Minerals Sites Plan Options 2017 consultation document](#)

### **Appendix 2:**

Kent Mineral and Waste Local Plan 2013-2030  
[Partial Review 2017' consultation document](#)

### **Appendix 3:**

Kent Minerals and Waste Local Plan 2013-30  
[Updated Local Development Scheme](#)

### **Appendix 4:**

Kent Minerals and Waste Local Plan 2013-30  
[Equality Impact Assessment](#)

[Topic Papers – Waste Assessment – BPP 2017](#)

[Kent Minerals Sites Plan – Mineral Site Selection – Initial Assessment November 2017](#)

[Scoping Report – Sustainability Appraisal of the Kent MWLP Partial Review](#)

[Scoping Report – Sustainability Appraisal of the Kent Minerals Sites Plan- Making Process](#)

[Site Identification and Selection Methodology \(Living Draft November 2017\)](#)

[Kent Minerals and Waste Local Plan 2013-30](#)

[Statement of Community Involvement](#)

## **12. Contact details**

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