

To:	Cabinet Member for Planning
From:	Senior Planning Policy Officer (Julian Ling)
Director:	Planning, Housing and Environmental Health (Eleanor Hoyle)

BRIEFING NOTE: EXECUTIVE - NON-KEY DECISION

KCC Draft Kent Minerals and Waste Local Plan (2024-2039) and Mineral Sites Plan Regulation 18 public consultation response

Summary of Issue:

Approval is sought for the formal TMBC response to the consultation.

Recommendation: Approve consultation response set out in annex.

1 Background

- 1.1 Kent County Council has a statutory responsibility to plan for future minerals supply and waste management within Kent. The Kent Minerals and Waste Local Plan [KMWLP] was adopted by the County Council in July 2016, and was partially updated as part of the Early Partial Review (EPR) in September 2020. This along with the Kent Mineral Sites Plan (2020) set out the Council's strategy and policy framework for minerals and waste development in Kent and plan for both mineral supply requirements and waste management capacity.
- 1.2 The County Council is currently undertaking a statutory five-year review of the Kent Minerals and Waste Local Plan as amended by the Early Partial Review (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 sites suitable for the quarrying of mineral aggregate within Kent.
- 1.3 This report updates Members in respect of the latest Regulation 18 public consultation on the draft KCC Minerals and Waste Local Plan and Minerals Sites Plan whereby additional changes are proposed to the draft Local Plan policies as well as a proposed new hard rock quarry site within the borough. The Consultation is taking place from Tuesday 13th June 2023 until Tuesday 25th July 2023.

2 Main Issues

- 2.1 There are two separate areas to the consultation as follows,

1. Proposed changes to the draft policies and supporting text within the draft Minerals and Waste Local Plan itself.
2. The addition of a new nominated hard rock site to the Kent Mineral Sites Plan – at land south and west of Hermitage Quarry.

KMWLP Policy changes

- 2.2 This review proposes four changes within the Draft Local Plan itself as set out below;
 1. Changes to policy CSM2 and associated supporting text, relates to the quantity of aggregate mineral to be planned for within Kent. This policy and supporting text plans for the supply of sharp sand and gravel, soft sand and hard rock to meet landbank requirements. The proposed changes take account of the proposed change to the Plan period from 2013-30 to 2024 – 2039.
 2. Deletion of CSW5 refers to land at Norwood Quarry Landfill site on the Isle of Sheppy. This is a strategic policy that currently allocates land for restoration by landfilling with hazardous (flue) dust ash residues from Energy from Waste plants. This is no longer required because such a means of disposal is no longer consistent with the waste hierarchy and more preferred options [further up the waste hierarchy] are viable and available.
 3. Deletion of paragraph 6.3.3 concerning provision within Kent for the management of residual non-hazardous waste arising in London. Previously, specific provision was made in the KMWLP for waste from London to be disposed of in Kent resulting from constraints in London. Owing to the London Plan commitment for London to now achieve net self-sufficiency by 2026, this help from Kent is no longer appropriate and needed.
 4. Extension to plan period. As part of the changes, it is also proposed to extend the plan period by one year from 2038 to 2039 to ensure that the updated Plan will cover a 15-year period [from adoption] as required by national policy.
- 2.3 It is considered that there would be no direct impact upon the borough of Tonbridge and Malling and the delivery of the council's statutory functions from these KMWLP changes. On this basis, it is therefore advised that the consultation response back to KCC reflects this.

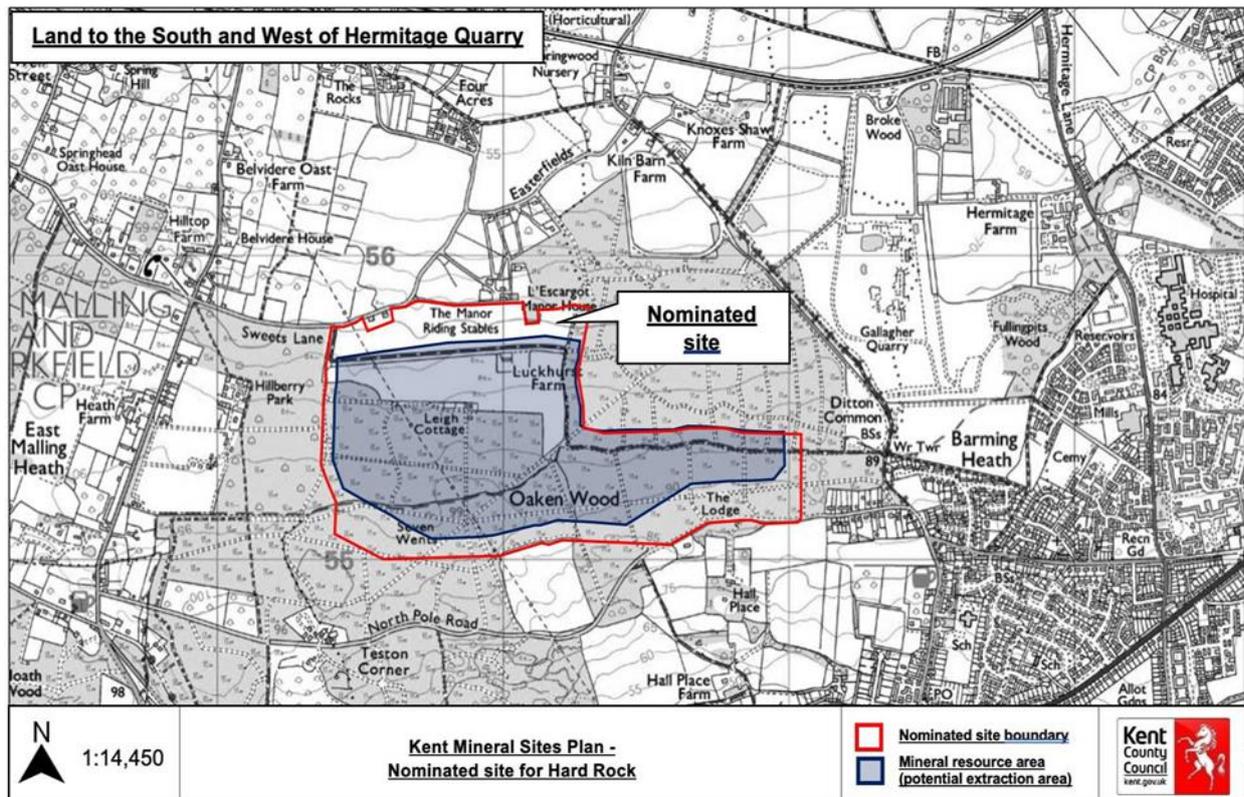
Update to the Kent Mineral Sites Plan – a new hard rock site

- 2.4 The second part of the consultation seeks to update the Kent Mineral Sites Plan with an additional site to address a deficit in hard rock and associated land bank reserves.
- 2.5 The Call for Sites exercise [undertaken in 2022] resulted in the nomination of a single site on land to the south and west of the existing Hermitage Quarry near Maidstone (to the east) and East Malling (to the west). The land has been nominated by Gallagher Aggregates Limited (GAL), the existing

operators of Hermitage Quarry, and would allow for an extension of the existing quarry. The site is within Tonbridge and Malling borough and partly straddles the border with Maidstone Borough Council. Figure 1 shows the location of the site.

2.6 It is understood that the excavated rock would be Kentish ragstone for use in historic built environment projects.

Figure 1. Land to the south and west of Hermitage Quarry.



2.7 Key features of the promoted site are as follows;

- The site is within the parishes of East Malling and Larkfield and Ditton Parish within TMBC and Barming Parish within the Borough of Maidstone.
- The nominated land covers an area of 96 hectares within which the promoter (GAL) considers extraction of 20 million tonnes of hard rock is possible which would meet the identified forecast requirement for the plan period. The potential yield would be influenced by planning constraints and appropriate stand-offs from sensitive land uses.
- annual output is anticipated to be around 900,000 tonnes per annum, which is the same as the current average output.
- the site would be restored to original levels with inert restoration materials (circa 500,000 tonnes per annum) and returned to mixed native woodland and meadow, subject to

biodiversity net gain requirements.

- The promoter envisages access to the site being obtained via the existing quarry access road off Hermitage Lane and does not envisage that any increase in vehicle movements will result in working of the mineral at the site. The nominated area includes the following designations within it:
- Public Right of Way
- Grade 2 Agricultural Land
- Ancient Replanted Woodland with the status of 'PAWS' (Plantations on Ancient Woodland Sites)
- Local Wildlife Site (Oaken Wood) – Designated for its variety of birds and invertebrates.
- Area of Biodiversity Opportunity.
- Oaken Wood SSSI is to the south west corner of the site (in Maidstone Borough).
- a National Grid Overhead High Voltage Power Line is located within the western limit of the potential site.
- there are three Air Quality Management Areas near to the site;
- there are a number of residential dwellings proximate to the site and several listed buildings;
- there may be below-ground palaeolithic interest.

2.8 When considering minerals extraction, it must be acknowledged that minerals can only be extracted where they naturally occur and that minerals are an important material for the construction industry. The winning of minerals are essential to support sustainable economic growth and our quality of life. Consideration should also be given to the need for such a material and the alternatives to not working the site, locating a different site within Kent or importing hard rock from beyond Kent to meet requirements.

2.9 At this early stage, only limited information is available to make an assessment on the acceptability of the site nomination and its impacts. Whilst it is considered that many of the site features do not present significant constraints and could be overcome with the use of appropriate planning conditions/obligations, the main consideration for Tonbridge and Malling Borough Council is the impact upon ecology and biodiversity.

2.10 Officers are aware that the site has a lot of ecological/biodiversity richness containing ancient woodland that would be lost to the development as well as being a Local Wildlife Site and partly within a Site of Special Scientific Interest (SSSI). The impact upon biodiversity and ecology and loss of ancient woodland (which is considered to be an irreplaceable habitat) raises significant concern with officers which would be contrary to the NPPF (based on the current information available).

2.11 The NPPF (Para 180c) advises that *“development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland) should be*

refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists”.

- 2.12 Therefore, at this early stage and based on limited information, Officers have significant concerns over the loss of the ancient woodland, where it is felt (at this stage) that it has not been demonstrated that wholly exceptional reasons exist to warrant the loss of the woodland.
- 2.13 The NPPF advises that examples of development that would be deemed to have wholly exceptional reasons for the loss of ancient woodland would be infrastructure projects where the public benefit would clearly outweigh the loss of the habitat.
- 2.14 As well as the ancient woodland, the site is also just within a Site of Special Scientific Interest (to the south west corner), is a designated Local Wildlife Site for its variety of birds and invertebrates, is an Area of Biodiversity Opportunity as well as forming part of the borough’s green Infrastructure network. Given the lack of information on the impacts upon these important features of the site, Officers also have concerns over the direct and cumulative impact (taking into account the existing quarry) on the special ecological richness of this site from the proposal. Further information such as ecological and arboricultural surveys as well as the views of Natural England would help in this instance to make an informed decision.
- 2.15 On this basis, it is therefore recommended that the response back to KCC also highlights the significant concern about the loss of ancient woodland and impact upon ecology and biodiversity as a whole from the new hard rock site nomination (please see recommended response in annex).

3 Legal Advice

- 3.1 The matters set out in this briefing note are considered routine or uncontroversial and a legal opinion has not been sought nor is required for the statement.

4 Financial and Value for Money implications

- 4.1 There are no financial or monetary implications.

5 Risk Assessment

- 5.1 N/A.

6 Public Sector Equality Duty

- 6.1 N/A

7 Consideration by Overview and Scrutiny

- 7.1 It is not considered that this matter needs to be considered by O&S/ SSC before a decision is made.

8 Communications

8.1 Any press/ public/ local member interest or involvement – **nil**.

9 Conclusion

9.1 Approval is required for the response back to KCC, as set out in the decision notice.

10 Annexes

10.1 Recommended TMBC response to KCC consultation

Annex 1

Dear Sharon

Draft Kent Minerals and Waste Local Plan 2024 – 2039 (Regulation 18) and Draft Kent Mineral Sites Plan consultation response.

Tonbridge and Malling Borough Council (TMBC) welcomes this opportunity to comment on this third Regulation 18 consultation of the Draft Kent Minerals and Waste Local Plan (KMWLP) and Mineral Sites Plan.

TMBC acknowledges that the KMWLP was adopted in July 2016, and partially updated in 2020. This forms part of the Tonbridge and Malling Borough Council's current Development Plan and that the borough is subject to the policies contained within this Plan.

The following Cabinet Member agreed comments are made in response to this third Regulation 18 consultation which should be considered alongside the council's previous comments submitted in November and February 2022.

Proposed changes to the Draft Kent Minerals and Waste Local Plan 2024-2039 policies and supporting text.

TMBC acknowledge the following changes to the policies and supporting text in the draft KMWLP and have no concerns with them.

- Changes to policy CSM2
- Deletion of policy CSW5
- Deletion of Paragraph 6.3.3
- Extension to plan period to 2039.

Draft Kent Mineral Sites Plan including details of new nominated hard rock site.

TMBC acknowledge the proposed nomination of a new hard rock site at land to the south and west of Hermitage Quarry which is partly within its administrative boundary that forms part of an ancient woodland and Local Wildlife Site. TMBC raise significant concern with this site proposal for the following reason.

Based on the limited information available at this time, TMBC do not consider there to be sufficient information available on the impacts of such a development on the ancient woodland. Therefore, in accordance with the NPPF para 180c,

[Development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exist],

TMBC do not consider that wholly exception reasons have been clearly demonstrated to warrant the loss of the ancient woodland which is an irreplaceable habitat or that a suitable compensation strategy would be put in place.

The site is also partly within a Site of Special Scientific Interest and wholly within a designated Local Wildlife Site, Area of Biodiversity Opportunity and forms part of the borough's Green Infrastructure Network. Therefore, in addition to the loss of ancient woodland, TMBC also raise significant concern regarding the direct and cumulative impact upon biodiversity and ecology of this biodiversity rich area which would also appear to be contrary to para 180 of the NPPF.

TMBC request further information on this site, in particularly an ecological/biodiversity assessment, an arboricultural survey and Natural England's comments [if available] to enable an informed decision to be made at the next consultation stage. TMBC question the need for developing this site and whether other sites could provide this mineral that could be identified through a more extensive call for sites exercise.

Summary

The KMWLP Review policy and supporting text changes are acknowledged. However TMBC has significant concern regarding the nomination of a new hard rock site at land south and west of Hermitage Quarry. Based on the limited information available and owing to the loss of ancient woodland, in accordance with the NPPF (Para 180c), it is considered that wholly exceptional reasons have not been demonstrated to warrant the loss of this irreplaceable habitat or that a suitable compensation strategy would be put in place. TMBC also have significant concern regarding the impact upon the ecology/biodiversity of this area as a whole.

Duty to Cooperate

TMBC has a good working relationship with KCC through the duty to cooperate forum and will continue to engage and support collaborative working in the preparation of our respective Local Plans. TMBC requests to be kept well-informed of your plan making progress as well as key dates.

I hope these comments are of assistance.

For any further enquiries regarding this matter please contact Julian Ling –
Julian.ling@tmbc.gov.uk

Yours sincerely

Julian Ling

Senior Planning Policy Officer