

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)
Regulation 19 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.
- 1.3 This report updates Members in respect of the latest Regulation 19 public consultation on the draft KCC Minerals and Waste Local Plan. It provides an opportunity to comment on the document before it is submitted to the Secretary of State for Independent Examination. The consultation is taking place from Wednesday 17th January 2024 to midnight on Thursday 29th February 2024.
- 1.4 PLEASE NOTE – This consultation does not include the Minerals Sites Plan and in particular the crushed rock allocation site at Oaken Wood. KCC have not yet concluded on new site allocations and finalised their position. This is anticipated to be in the autumn when the Sites Plan Regulation 19 public consultation is programmed for Oct/November 2024.

1.5 The consultation can be accessed at the following link
www.kent.gov.uk/mineralsandwaste

2 Main Issues

2.1 Changes to the currently adopted Kent Minerals and Waste Local Plan are proposed to form the Pre-Submission Draft Kent Minerals and Waste Local Plan 2024-39.

2.2 The council has already responded to many of the changes as part of the three Regulation 18 plan consultations. As such these are now the final updates before the Plan is submitted for examination.

2.3 The updates and changes reflect the following matters;

- Updates to the National Planning Policy Framework in 2018, 2019, 2021 and 2023 and associated Planning Practice Guidance;
- Extending the plan period to 2039;
- Legislation and policy concerning: The need to adapt to, and mitigate, climate change and, associated low carbon growth;
- Policy and legislation concerned with achieving a circular economy where more waste is prevented or reused;
- Adoption by the County Council of the Kent Environment Strategy and Kent and Medway Energy and Low Emissions Strategy;
- Updates to aggregate requirements in Policy CSM2 and waste management targets in Policy CSW4;
- Deletion of Policy CSM3 that allocates a strategic site for minerals (as planning permission has been granted);
- Deletion of Policy CSW5 that allocates a strategic site at Norwood Quarry, Isle of Sheppey for the landfill of hazardous waste specifically incinerator fly ash;
- A recognition within supporting text of the need for the development of additional capacity for the management of household waste identified by the Waste Disposal Authority;
- Removal of a commitment to make specific provision for the management of residual non-hazardous waste by landfill or energy recovery that arises in London;
- Changes to Policy CSW17 relating to waste management at Dungeness to ensure consistency with national policy;
- A change to Policy DM3 that seeks the achievement of maximum practicable biodiversity net gain;
- Changes to settlement boundaries affecting Mineral Safeguarding Areas. For TMBC this covers changes to the map colouring and removal of settlement boundaries for the rural settlements and villages;
- Changes to the monitoring framework to ensure it properly reflects the updated policies; and,
- Further changes intended to improve the clarity of the Plan's wording and hence the meaning of certain objectives and policies.

Changes/additions most relevant to TMBC

- 2.4 Deletion of policy CSM3. The most relevant of these changes to the Tonbridge and Malling borough is the deletion of the strategic minerals policy CSM3 which referred to the Medway cement works at Holborough in the north of the borough.
- 2.5 This was a long-standing policy that safeguarded the chalk mineral reserve and associated operations/works for the production of cement. However the site has the benefit of an extant implemented planning permission with the permitted mineral resources that are required to supply the works for at least 25 years so its further development is safeguarded by other policies such as CSM5, DM7 and DM8.
- 2.6 Furthermore the NPPF does not require specific chalk landbanks to be maintained at any particular level and taking account of the massive nature of the deposit in Kent, sites for chalk extraction are not now considered necessary. For these reasons, KCC considered it was no longer necessary to have this strategic site allocation and as such propose for it to be removed.
- 2.7 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 and additions. It is recommended that TMBC's response reflect this.

Other issues

- 2.8 National Landscapes. Throughout the plan, reference is made to Areas of Outstanding Natural Beauty (AONBs) and their conservation and enhancement. However, following a change to the Levelling Up and Regeneration Act (2023), these have been rebranded as National Landscapes.
- 2.9 The legal duty placed on public bodies and statutory undertakers has also changed becoming more onerous requiring a relevant authority to 'further' the purpose of conserving and enhancing the natural beauty of areas of outstanding natural beauty. Essentially this provides greater protection for National Landscapes.
- 2.10 The KMWLP fails to reflect these changes whereby TMBC officers consider these are fundamental changes that should be addressed. Its therefore recommended that the TMBC response also refers to this important issue.
- 2.11 Biodiversity Net Gain [BNG]. TMBC Officers are pleased to see that the KMWLP seeks to meet the minimum requirement of 10% biodiversity net gain, but where possible, an expectation to achieve the maximum practicable net gain. However, the KMWLP does not set a BNG hierarchy with on-site contributions being a priority. This is considered important and would be very helpful to clarify what is expected for developers. Its therefore recommended that the response back to KCC also refers to this important BNG point as well.

2.12 On this basis, it is recommended that the consultation response raises no objection to the changes/additions and supports the Plan as a whole and includes the informative points regarding National Landscapes and BNG.

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 Annex 1: Recommended TMBC response to KCC consultation

Annex 1

Draft Pre-Submission Kent Minerals and Waste Local Plan (KMWLP) 2024 – 2039 (Regulation 19) consultation response.

Tonbridge and Malling Borough Council (TMBC) welcomes this opportunity to comment on this draft Pre-Submission of the Kent Minerals and Waste Local Plan (KMWLP) 2024 – 2039.

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 19 consultation which should be considered alongside the council's previous comments submitted at Regulation 18 stage.

Proposed changes to the draft Pre-Submission of the Kent Minerals and Waste Local Plan 2024-2039 policies and supporting text.

TMBC acknowledge the changes to the policies and supporting text in the draft Pre-Submission KMWLP and raise no objection to them.

However, Tonbridge and Malling Borough Council would recommend the following informative points are addressed/included within the Plan prior to its submission for examination in public;

National Landscapes

Throughout the Plan, reference is made to Areas of Outstanding Natural Beauty [AONB's] especially within policy DM2. KCC are reminded that from November 2023 these were rebranded as National Landscapes which should be reflected within the policies and text.

Following a change to the Levelling Up and Regeneration Act (2023), the duty placed on public bodies and statutory undertakers has now shifted to an active duty whereby a relevant authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty. In this respect, it is unclear how the KMWLP seeks to achieve this new duty.

Biodiversity Net Gain (BNG)

TMBC is pleased to see policies targeting Biodiversity Net Gain (BNG). However, there does not appear to be any hierarchy for contributions where it is considered it would be helpful if the KMWLP policies set out a clear BNG hierarchy to follow with 'on site' being the priority.

Summary

TMBC acknowledge the draft Pre-Submission KMWLP. It is considered that the Plan does not present significant policy constraints for the borough of Tonbridge and Malling and the delivery of its planning functions. Therefore, TMBC raise no objection to the proposed changes and support the Plan as a whole but recommended that further consideration be given in light of the comments cited above.

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 would like to be kept well-informed of your plan making progress. In particular, TMBC request to be kept informed with the progression of the Kent Minerals Sites Plan and the proposed hard rock site at Oaken Wood or any other site which could potentially impact upon the communities of Tonbridge and Malling and/or influence TMBC's Plan making.

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