



Independent Examination of the Kent Minerals and Waste Local Plan Matters, Issues and Questions

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Introduction

Following the initial examination of the Kent Minerals and Waste Local Plan ('the Plan') and supporting material I set out below the Matters (topics) and Issues (points for consideration) that will form the basis for discussions during the Hearing sessions. Matters and Issues may change as the Examination progresses, although participants will be given an opportunity to comment on any new issues that may arise.

This note provides questions, principally to the Council that potentially go to matters of soundness and, in some cases, are based on the representations that have been made. In framing the Matters, Issues and Questions (MIQs) I have had regard to the definition of soundness at paragraph 35 of the National Planning Policy Framework and also the principles of plan-making in paragraph 16. This establishes that policies should be clearly written and unambiguous, so that it is evident how a decision maker should react to a development proposal. The Plan should therefore set out clear policies on what will or will not be permitted.

A separate Guidance Note [ED6], published alongside these MIQs, sets out the administrative details for the format, content and the deadline for Hearing statements. In answering these questions, the Council should consider whether it might be necessary to prepare any potential main modifications to the submitted plan.

A LEGAL COMPLIANCE

Matter 1 – Legal Compliance

Issue: Whether the Plan complies with all relevant legal requirements, including the Duty to Co-operate.

Duty to Co-operate

- 1 Has the Council engaged constructively, actively and on an ongoing basis with all relevant organisations on strategic matters of relevance to the Plan's preparation, as required by the Duty to Co-operate (under s 20(5)(c) and 33A of the Planning and Compulsory Purchase Act 2004)?
- 2 Is there a need to update any Statement of Common Ground (SoCG), given the time elapsed between their completion and the submission of the Plan for Examination?

Planning and Compulsory Purchase Act 2004, Section 19 and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)

3. Has the Plan been prepared in compliance with the adopted Statement of Community Involvement and met the minimum consultation requirements set out in the Regulations? Is there any substantive evidence to demonstrate that the public consultation carried out during the plan-making process failed to comply with the Council's Statement of Community Involvement or legal requirements?
4. Does the Plan comply with the 2004 Act and the 2012 Regulations in terms of publishing and making available the prescribed documents?
5. Has the Plan been prepared in accordance with the Council's Local Development Scheme?

Whether the Sustainability Appraisal (SA) complies with the requirements of the 2004 Act, the Strategic Environmental Assessment Directive (SEA Directive) and the Environmental Assessment of Plans and Programmes Regulations 2004 (the SEA Regulations)

6. Does the Sustainability Appraisal provide clear evidence to indicate why, having considered reasonable alternatives, the strategy in the Plan is an appropriate

response? Does the methodology conform to that in the National Planning Policy Framework and Planning Practice Guidance?

7. Is there clear evidence to indicate why, having considered reasonable alternatives, the Plan's strategy is an appropriate one?
8. Does the Habitat Regulations Assessment comply with relevant legal requirements, and is there any substantive evidence to indicate that its conclusions are incorrect?
9. Does the Development Plan, taken as a whole, include policies to address strategic priorities for the development and use of land in the Minerals and Waste Plan area?
10. Does the Development Plan, taken as a whole, include policies designed to secure that the development and use of land in the Plan area contributes to the mitigation of, and adaptation to, climate change?

Does the Plan raise any issues which are of relevance to the Public Sector Equality Duty?

11. Describe how the Plan, and its preparation process meet the requirements of the public sector equality duty in section 149 of the Equality Act 2010.

B SOUNDNESS

Matter 2 – Introduction, Spatial Portrait, Spatial Vision and Objectives

Issue: Whether the Spatial Portrait, Spatial Vision and Objectives are appropriate, positively prepared and are soundly based and provide an appropriate basis for meeting the future demand for minerals and managing waste sustainably.

Introduction, Spatial Portrait, Spatial Vision and Objectives

12. Should the introductory text reference the ‘South East England Aggregate Working Party’ and the ‘South East Waste Planning Advisory Group’?
13. Should reference be made to the ‘Mineral Sites Plan’ and its relationship with the Minerals and Waste Plan and timescales for its update?
14. Should reference be made to the Environmental Permitting regime and its relationship with granting of planning permissions for waste facilities?
15. Would the transportation of minerals and waste, as a result of the policies contained in the Plan, compromise the prime function of the Strategic Road Network? In this respect, does reference need to be made to Circular 01/2022 (Strategic Road Network) within section 1.3 of the Plan?
16. Should the reference to the South East Local Enterprise Partnership (SE LEP) at Para 2.1.4 be made more explicitly relevant to minerals and waste or its role in plan making?
17. Should paragraph 2.2.1 reference Regionally Important Geological Sites?
18. How are the ‘Biodiversity Opportunity Areas’ integrated with the Plan policies? Do the relevant policies allow the opportunity to consider the uniqueness of any proposed development site against BOA, The Local Nature Recovery Strategy and Nature Partnership Biodiversity Strategy criteria?
19. Are there any updates to the establishment of ‘The Local Nature Recovery Strategy’ (LNRS) as referenced in paragraph 2.2.6?
20. Does the Spatial Vision adequately address biodiversity and climate change impacts?
21. Should the Vision reflect the national and local economic benefits of mineral extraction and the contribution that these may make to supporting the rural economy?

22. How would the Plan's policies be effective in meeting objective 1 in terms of progressing to a low carbon economy?
23. How would the Plan's policies be effective in meeting objective 6 in terms of facilitating the use of secondary and recycled aggregate?
24. How would the Plan's policies be effective in meeting objective 8 in terms of the extraction of building stone for heritage buildings? Should reference be made to safeguarding specific resources?
25. How would the Plan's policies be effective in meeting objective 11 in terms of enabling the waste management industry to provide facilities that increase recycling, treatment and reprocessing to improve the management of resources?
26. How would the Plan's policies be effective in meeting objective 12 in terms of reducing the need to travel?

Matter 3 – Delivery Strategy for Minerals

Issue: Whether the provision made in the Plan for the future supply of aggregate and industrial minerals would deliver a steady and adequate supply and is therefore positively prepared.

Policy CSM 2: Supply of Land-won Minerals in Kent

27. Is the basis for the calculation of the future demand for aggregates, sand (soft and silica) and gravel, clear and robust enough in order to provide an appropriate basis for determining future demand?
28. Should the required volumes of materials be included within the Policy to make it consistent with National Policy in respect of planning for a steady and adequate supply of industrial minerals as required by paragraph 220 of the NPPF?
29. How would the proposed redevelopment of Sevenoaks Quarry impact on the steady and adequate supply of land-won minerals in Kent?
30. Is the approach taken within this policy suitably robust to allow sites to come forward in order to meet any shortfalls? Does this approach provide sufficient certainty to developers and the community?
31. Should the Plan provide any distinction and/or protection for the use of Ragstone, particularly in relation to its use in conservation work and to maintain local vernacular, as opposed to its use as crushed rock?
32. Will the adopted Mineral Sites Plan 2013 – 2030 deliver the demonstrated future demand for aggregates as set out in the Minerals and Waste Plan? Where specific sites have been identified, how does the evidence demonstrate that the allocations are appropriate to meet identified requirements?
33. In general, how does the Plan seek to ensure that any significant constraints/adverse impacts of development of these specific allocations are overcome/mitigated to an acceptable level?
34. Section 3 of this policy refers to silica sand. Is this element of Policy CSM 2 justified, effective and consistent with national policy?
35. Section 6 of this policy refers to site selection. Is this element of Policy CSM 2 justified, effective and consistent with national policy, particularly in terms of biodiversity and conservation?

36. Is this policy consistent with national policy with reference to flood risk from surface water and the requirement for sequential tests to be undertaken on allocated sites?
37. Policy CSM 2 refers to footnotes 54 and 55. Should this information be included in the policy itself to ensure that it is effective?

Policy CSM 4: Non-identified Land-won Mineral Sites

38. Would this policy provide a positive approach/framework to bring forward necessary mineral resources, such as engineering clay?

Policy CSM 11: Prospecting for Carboniferous Limestone

39. Does this policy adequately address biodiversity impacts and any necessary mitigation?

Matter 4 – Protecting Mineral Resources, Infrastructure and facilities, and transport.

Issue: Whether the Plan adequately balances the needs of competing development and provides appropriate direction for the sustainable transport of minerals.

Policy CSM 5: Land-won Mineral Safeguarding; Policy CSM 6: Safeguarded Wharves and Rail Depots; and Policy CSM 7: Safeguarding Other Mineral Plant Infrastructure

40. Do these policies provide sufficient guidance to indicate how safeguarding of minerals and minerals infrastructure is to be considered in non-minerals development proposals?
41. Should these policies (or their supporting text) require developers to provide evidence of pre-application engagement with mineral site/infrastructure operators?
42. Policy CSM 6 refers to footnote 61. Should this information be included in the policy itself to ensure that it is effective?

Policy CSM 12: Sustainable Transport of Minerals

43. Should the supporting text explain the relationship between transport and climate change and the likely transition over the Plan period towards lower emission vehicles and potentially zero-emission vehicles?
44. How does this policy, or indeed the Plan, seek to promote the most sustainable modes of transport?
45. Policy CSM 12 refers to footnote 65. Should this information be included in the policy itself to ensure that it is effective?

Matter 5 – Use of secondary and recycled aggregates.

Issue: Whether the Plan sufficiently promotes the use of secondary and recycled aggregates.

Policy CSM 8: Secondary and Recycled Aggregates

46. Is this policy justified, effective and consistent with national policy, particularly in terms of biodiversity and conservation?
47. How does the Plan influence non-minerals development with a view to minimising the reliance on primary aggregates such as the adoption of sustainable design principles, construction methods and procurement policies and reusing or facilitating the recycling of wastes generated on-site and using alternative construction materials?
48. Does the Plan provide sufficient guidance to applicants and District Councils as to how compliance with this policy is expected to be achieved?
49. How will the effectiveness of this policy be monitored?

Matter 6 – Minerals other than aggregates

Issue: Whether the Plan makes adequate provision for other minerals of significance in Kent.

Policy CSM 9: Building Stone in Kent

50. Does this policy suggest that only proposals that contribute to the maintenance of the historic environment will be supported? Should it be made clearer that building stone is necessary not only to contribute to the maintenance of the historic environment but also to contribute to local distinctiveness?
51. Should this policy, in order to provide certainty and clarity, refer to the requirement to restore extraction sites commensurate with the landscape character of an area?

Policy CSM 10: Oil, Gas and Unconventional Hydrocarbons

52. Is this policy justified, effective and consistent with national policy in respect of paragraphs 221 - 223 of the NPPF??
53. Does this policy adequately consider the environmental impacts, including on groundwater, to be taken into account in the consideration of development proposals and the implications of climate change?
54. Should the supporting text explain what is meant by 'local environments and communities' or should this be set out in the policy?
55. Policy CSM 10 refers to footnote 63. Should this information be included in the policy itself to ensure that it is effective?

Matter 7 – Delivery Strategy for Waste

Issue: Whether the Plan's overall approach and policies in relation to waste that needs to be managed in the Plan area over the Plan period are robust, justified, effective and consistent with national policy.

56. Does the Plan appropriately take into account future development allocations and strategies in the other constituent parts of the development plan with regard to the future need, provision and location of waste facilities?
57. What evidence is available to ensure that the waste sites relied on have sufficient capacity which will be deliverable during the Plan period?
58. How would the proposed redevelopment at the Otterpool Quarry Site impact on waste management capacity in Kent over the Plan period?
59. Does the Plan provide sufficient scope, flexibility and opportunity to deliver new waste management capacity should the need arise?
60. Does the Plan set out an appropriate approach with regard to cross-border movements of waste and the potential for self-sufficiency within the Plan area?
61. To be effective, does the Plan support the relevant District Councils to secure contributions (such as s106 payments) from developers to provide necessary waste infrastructure? Would such an approach be justified?
62. Is the Plan consistent with national policy in its approach to dealing with hazardous waste? How does the evidence demonstrate that there is sufficient capacity for hazardous waste over the Plan period?

Policy CSW 2: Waste Hierarchy

63. How does this policy support the movement of waste management up the waste hierarchy and reflect the proximity principle?
64. Should the policy or its supporting text explain what is meant by 'practicable'?

Policy CSW 3: Waste Reduction

65. Policy CSW 3 refers to footnote 71. Should this information be included in the policy itself to ensure that it is effective?

Policy CSW 4: Strategy for Waste Management Capacity

66. To be effective should this policy identify capacity for wastes arising from nutrient neutrality schemes or is there evidence to show how such wastes are considered within the Plan?
67. Policy CSW 4 refers to footnotes 72, 73 and 74. Should this information be included in the policy itself to ensure that it is effective?

Policy CSW 6: Location of Built Waste Management Facilities

68. Should the policy be amended to include reference to the Strategic Road Network (bullet point c) and that the word 'unacceptable' should be added before "significant adverse impacts" (bullet points a and b)?
69. Policy CSW 6 refers to footnote 76. Should this information be included in the policy itself to ensure that it is effective?

Policy CSW 8: Other Recovery Facilities for Non-hazardous Waste

70. To aid clarity, does the use of 'Council' in bullets 'e' and 'f' require further definition?
71. Policy CSW 8 refers to footnote 81. Should this information be included in the policy itself to ensure that it is effective?

Policy CSW 9: Non Inert Waste Landfill in Kent

72. Is this policy sufficiently clear and consistent with national policy? Does it provide sufficient guidance as to how its requirements are to be demonstrated and considered? How would proposals for landfill or land raising facilities demonstrate delivery of the waste hierarchy?
73. Policy CSW 9 refers to footnote 82. Should this information be included in the policy itself to ensure that it is effective?

Policy CSW 12: Hazardous Waste Management

74. Is this policy sufficiently clear and consistent with national policy? Does it explain how its requirements are to be demonstrated and considered?

Policy CSW 13: Remediation of Brownfield Land

75. Would it aid the effectiveness of this policy if reference was made to the 'Sustainable Remediation' in the supporting text?

Policy CSW 14: Disposal of Dredgings

76. Is this policy sufficiently clear and consistent with national policy?
77. To ensure clarity does the supporting text to this policy require updating, in particular in relation to 'The Thames Vision'?

Policy CSW 15: Wastewater Development

78. Is this policy sufficiently clear and consistent with national policy, in respect of making sufficient provision for waste management and wastewater as required by paragraph 20 of the NPPF?
79. Policy CSW 15 refers to footnote 83. Should this information be included in the policy itself to ensure that it is effective?

Policy CSW 16: Safeguarding of Existing Waste Management Facilities

80. Is the appropriate balance struck between the needs of competing development with the need to safeguard waste management facilities? What evidence is there to support the stance taken in the Plan?
81. Policy CSW 16 refers to footnote 85. Should this information be included in the policy itself to ensure that it is effective?

Policy CSW 17: Waste Management at the Dungeness Nuclear Licensed Sites

82. To be effective and to respond to climate change over the Plan period does this policy need to refer to compliance with other Plan policies such as DM 2 Environmental and Landscape Sites of International, National and Local Importance and DM 3 Ecological Impact Assessment?
83. To aid clarity does the supporting text to this policy need modifying to reference the document "Near-surface Disposal Facilities on Land for Solid Radioactive Wastes Guidance on Requirements for Authorisation" (February 2009)?
84. Policy CSW 17 refers to footnote 96. Should this information be included in the policy itself to ensure that it is effective?

Matter 8 – Development Management Policies

Policy DM 1: Sustainable Design

85. Is this policy sufficiently clear and consistent with national policy in respect of achieving well-designed and beautiful places as required by chapter 12 of the NPPF?

Policy DM 2: Environmental and Landscape Sites of International, National and Local Importance

86. Is this policy sufficiently clear and consistent with national policy in respect of conserving and enhancing the natural environment as required by chapter 15 of the NPPF?
87. Policy DM 2 refers to footnotes 101, 102 and 103. Should this information be included in the policy itself to ensure that it is effective?

Policy DM 3: Ecological Impact Assessment

88. Is this policy sufficiently clear and consistent with national policy in respect of conserving and enhancing the natural environment as required by chapter 15 of the NPPF?
89. How does this policy consider the BNG target of the Kent Nature Partnership? What are the timescales for adopting supporting BNG guidance?
90. Policy DM 3 refers to footnote 104. Should this information be included in the policy itself to ensure that it is effective?

Policy DM 4: Green Belt

91. Is this policy sufficiently clear and consistent with national policy in respect of protecting Green Belt land as required by chapter 13 of the NPPF?

Policy DM 5: Heritage Assets

92. How would this policy meet bullet point 4 of the Spatial Vision?
93. Policy DM 5 refers to footnote 107. Should this information be included in the policy itself to ensure that it is effective?

Policy DM 7: Safeguarding Mineral Resources

94. Does the policy look to safeguard the known locations of all mineral resources of local and national importance in line with the NPPF?
95. Would this policy be effective at safeguarding mineral resources?
96. For clarity and to provide certainty for developers, should this policy and its supporting text specifically address mineral exemptions in terms of sites allocated for alternative development within Local Plans?
97. Policy DM 7 refers to footnote 110. Should this information be included in the policy itself to ensure that it is effective?

Policy DM 8: Safeguarding Mineral Management, Transportation

98. As the policy appears to be looking to safeguard existing and permitted mineral workings and minerals and waste infrastructure, how do Plan users know which workings or infrastructure the policy applies to?
99. For clarity and to provide certainty for developers, should this policy and its supporting text specifically address mineral exemptions, particularly in terms of sites allocated for alternative development within Local Plans?
100. Would this policy be effective at safeguarding mineral and waste transportation and facilities?

Policy DM 9: Prior Extraction of Minerals in Advance of Surface Development

101. Is this policy sufficiently clear and consistent with national policy in respect of encouraging the prior extraction of minerals, where practical and environmentally feasible as required by chapter 17 of the NPPF?

Policy DM 10: Water Environment

102. Is this policy sufficiently clear and consistent with national policy in respect of conserving and enhancing the natural environment as required by chapter 15 of the NPPF?
103. Should the policy refer to the need for a Site-Specific Flood Risk Assessment to be submitted with proposals for minerals development?
104. How would this policy meet bullet point 3 of the Strategic Objectives for the Minerals and Waste Local Plan, with regard to flood prevention/protection?

Policy DM 12: Cumulative Impact

105. Is this policy sufficiently clear and consistent with national policy in respect of conserving and enhancing the natural environment as required by chapter 15 of the NPPF?

Policy DM 13: Transportation of Minerals and Waste

106. Is this policy sufficiently clear and consistent with national policy, with reference to 'safely accommodating traffic flows' and 'conserving and enhancing the natural environment as required by chapter 15 of the NPPF'?

107. How does this policy seek to promote the most sustainable modes of transport?

108. Should the supporting text explain the relationship between transport and climate change and the likely transition over the Plan period towards lower emission vehicles and potentially zero-emission vehicles?

Policy DM 14: Public Rights of Way

109. Should the supporting text to this policy specifically refer to the 'Right of Way Improvement Plan 2018-2028'?

Policy DM 16: Information Required in Support of an Application

110. What evidence is available to justify the requirement for this policy?

111. Policy DM 16 refers to footnote 119. Should this information be included in the policy itself to ensure that it is effective?

Policy DM 17: Planning Obligation

112. This Policy DM 17 refers to footnote 120. Should this information be included in the policy itself to ensure that it is effective?

Policy DM 19: Restoration, Aftercare and After-use

113. Is this policy sufficiently clear and consistent with national policy, in particular, conserving and enhancing the natural environment as required by chapter 15 of the NPPF and the requirements of the Environment Act 2021 in terms of aftercare period?

Policy DM 20: Ancillary Development

114. Is this Is this policy sufficiently clear and consistent with national policy in respect of conserving and enhancing the natural environment as required by chapter 15 of the NPPF?

115. This Policy DM 20 refers to footnote 123. Should this information be included in the policy itself to ensure that it is effective?

Policy DM 22: Enforcement

116. What evidence is available to justify the requirement for this policy?

Matter 9 – Delivery, Implementation and Monitoring

Issue: Whether the delivery, implementation and monitoring arrangements will be effective.

117. Is the approach to monitoring and Implementation in the Plan robust and practicable?
118. Does the monitoring process for minerals and waste provide for cooperation and participation and are the appropriate participants involved?
119. Does the monitoring process for minerals and waste provide for flexibility? For example:
- What contingency measures are in place in the event of non-delivery or lower than expected delivery of minerals and waste facilities?
 - What measures are in place to allow for higher than forecast levels of demand for minerals and waste facilities?
120. With reference to Policy CSM 2 and the Monitoring Schedule, Does the reserve level for building stone need to be monitored in order to ensure a sufficient supply?
121. With reference to Policy CSW 2 and the Monitoring Schedule, how will reduction in waste and promotion of a circular economy be measured?

Other Matters

122. Does the Glossary (Appendix A) need updating to ensure it is sufficiently clear and consistent with national policy and guidance?

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INSPECTOR