

Independent Examination of the Kent Minerals and Waste Local Plan 2024-2039 -
Matters, Issues and Questions



Kent County Council

**Independent Examination of the Kent Minerals
and Waste Local Plan 2024-2039**

Matters, Issues and Questions

20th August 2024

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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)?

Yes. Details of the engagement with the relevant organisations and consultees undertaken in the preparation of the Kent Minerals and Waste Local Plan (KMWLP) 2024-39 can be found in the Duty to Cooperate (DtC) Report (SD03) (May 2024). The report details the engagement that has taken place throughout the preparation of the Local Plan with Kent District and Borough Councils, neighbouring Minerals and Waste Planning Authorities and Other DtC Prescribed Bodies. The report provides details of each stage in the consultation process related to the update of the KMWLP from initial informal consultation with key stakeholders in 2021, through to three Regulation 18 public consultations, informal targeted consultations with relevant stakeholders and lastly the Regulation 19 public consultation. The report details how the County Council has 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 Cooperate (under s 20(5)(c) and 33A of the Planning and Compulsory Purchase Act 2004). It also provides summaries of the responses from the DtC bodies at each Regulation 18 consultation stage that have helped shape the development of the KMWLP 2024-39. The DtC Report concludes that the Council has fully complied with the Duty to Co-operate (DtC) legislation and guidance and taken account of issues raised during plan preparation.

During the Regulation 19 period for representations, all consultees were asked if the KMWLP was legally compliant, with specific reference to fulfilment of the Duty to Co-operate. No representations were made which raised issues with the Council's compliance with the Duty to Cooperate requirements, and several DtC parties specifically referred to a good working relationship on DtC matters. The DtC work is supported by a number of Statements of Common Ground.

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?

The position with regards to the Statements of Common Ground (SoCG) with the Kent District and Borough Council's at the time of submission (May 2024) is set out in table 6 of the Duty to Cooperate Report (SD03). An updated position with regards to the SoCG's as of July 2024 is set out in response to Question 1 of the Inspectors Preliminary Matters (ED9) (July 2024). This sets out that since submission of the Kent Minerals and Waste Local Plan 2024-39 to the Secretary of State for Independent August 2024

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Examination, work has been ongoing to finalise any required documents. Work with Tunbridge Wells Borough Council and Ashford Borough Council, the two remaining SoCG's is progressing well, and the County Council is anticipating being in a position to share these with the Inspector prior to the hearings commencing in September 2024.

In relation to the SoCG's that were agreed prior to the submission of the Local Plan for Examination, these include the following:

- SD12 - Statement of Common Ground between Kent County Council and Natural England - April 2024
- SD13 - Statement of Common Ground between Kent County Council and Canterbury City Council - April 2024
- SD14 - Statement of Common Ground between Kent County Council and Ebbsfleet Development Corporation - April 2024
- SD15 - Statement of Common Ground between Kent County Council and Tonbridge and Malling Borough Council - April 2024

The County Council considers that whilst the above SoCG's were agreed prior to the submission of the Local Plan and notes that some time has elapsed, the SoCGs pick up any matters subsequent to the Regulation 19 public consultation that took place from January 2024 to February 2024. The County Council is of the view that there are no further matters following this time that would be helpful to address in the SoCG's.

The following SoCG's have also been agreed following the submission of the Local Plan for Examination:

- ED10 - Statement of Common Ground between Kent County Council and Maidstone Borough Council - July 2024
- ED11 - Statement of Common Ground between Kent County Council and Medway Council - July 2024
- ED12 - Statement of Common Ground between Kent County Council and Sevenoaks District Council - July 2024
- ED13 - Statement of Common Ground between Kent County Council and Surrey County Council - July 2024

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?

The County Council's Statement of Community Involvement (SCI) was adopted in 2021 (EB15) and sets out the Local Plan preparation methods of engagement in accordance with legislation and guidance.

The SCI requires engagement with specific stakeholders where necessary to
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aid more detailed discussion and dialogue. Stakeholders are stated to include the minerals and waste industry, statutory bodies, utilities companies and any other relevant groups. Such meetings have taken place where necessary to aid the preparation of a sound and deliverable Minerals and Waste Local Plan. Meetings have taken place with industry representatives, Natural England, the Environment Agency and others where necessary. Furthermore, ongoing discussions and dialogue have taken place with stakeholders where necessary to aid the preparation of the Local Plan.

The Regulation 22 Statement (SD04) (May 2024) provides a summary of the consultation stages that have taken place in relation to the preparation of the Kent Minerals and Waste Local Plan 2024-39. The document then details which bodies and persons the local planning authority invited to make representations under Regulation 18 and how those bodies were invited to make representations under Regulation 18. As set out in the Regulation 22 Statement, the County Council has actively invited relevant key stakeholders, including DtC bodies, to comment on draft updated text throughout the preparation of the Kent Minerals and Waste Local Plan 2024-39. Throughout the process, the County Council has made a conscious, on-going effort to widely publicise all consultations in accordance with the adopted SCI by actively notifying all stakeholders via email, raising awareness by distributing information at the main County Council office and regularly updating information on the team's online consultation portal and the County Council's website.

In terms of the three Regulation 18 public consultations and Regulation 19 consultation that have taken place, the County Council has ensured that these have been undertaken in accordance with the SCI and associated legislation and guidance. The consultations took place for at least 6 weeks and were launched using the County Council's consultation portal (<https://letstalk.kent.gov.uk/hub-page/mineralsandwaste>) which publicised the consultation documents and associated evidence base, including the Sustainability Appraisal, as well as notifying those who had registered an interest in environmental and planning matters. All contacts on the County Council's minerals and waste consultee database, including statutory consultees, interested stakeholders and organisations were also notified of the consultation directly via email, and the database of contacts has expanded as preparation of the updated Plan has progressed. Hard copies of the relevant consultation documentation have been made available at the main County Council office for the duration of the consultations, with details of where and when documentation can be viewed provided, and all documents online were made available in an accessible format. The Plan has evolved following consideration of the representations received in response to the Regulation 18 consultations to form the Kent Minerals and Waste Local Plan 2024-39 that was submitted to the Secretary of State for Independent Examination in May 2024.

In light of the above, the County Council considers that the steps taken to engage with the relevant consultees are consistent with the stipulations of the SCI and legislation, and there is no 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.

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4. Does the Plan comply with the 2004 Act and the 2012 Regulations in terms of publishing and making available the prescribed documents?

Yes, the County Council considers that the preparation of the Kent Minerals and Waste Local Plan 2024-39 has been undertaken in compliance with The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and Section 19 of the Planning and Compulsory Purchase Act 2004 in terms of publishing and making available the prescribed documents.

The prescribed documents have been made available online via the County Council's consultation portal (<https://letstalk.kent.gov.uk/hub-page/mineralsandwaste>) for the duration of the public consultations that have taken place. Whilst the detail to submit comments in relation to the consultations have since closed, details of the consultations including the documents that were made available online are still currently able to be viewed online via the consultation portal.

Furthermore, hard copies of the prescribed documents have been available at the main County Council office, Sessions House, County Hall, Maidstone, Kent ME14 1XQ between the hours of 9am and 5pm Monday to Friday for the duration of the consultations. Details of the times and locations that hard copies of the prescribed documents could be viewed has been set out on the consultation portal and in the Statement of Representations Procedure and Availability of Documents document (EB16) (January 2024) for the Regulation 19 consultation.

Throughout the consultations, a complete set of documents including the draft Plan, Sustainability Appraisal, associated evidence base, guidance notes and representation forms have been made available on the County Council's online consultation portal. Additional documents than those prescribed by legislation have been available to view in a hard copy at the main County Council office, and both the hard copy and online sets have been accompanied by a note that provide contact details of the County Council should alternative formats or languages be required, or further clarification be required.

5. Has the Plan been prepared in accordance with the Council's Local Development Scheme?

The County Council's Local Development Scheme (LDS) was adopted in November 2023 and sets out a timetable for the production of the key planning documents related to minerals and waste planning policy in Kent. The timetable of the key stages in relation to the review and update of the Kent Minerals and Waste Local Plan as set out in the adopted LDS is as follows:

Stages	Dates
<i>Evidence gathering to inform review</i>	<i>June 2020 - March 2021 (completed)</i>
<i>Consultation with key stakeholders on need for review of policies</i>	<i>January 2021 - May 2021 (completed)</i>

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<i>Report outcome of review to Members including recommendations on the need to update policies</i>	<i>September - November 2021 (completed)</i>
<i>Consultation on draft updated policy (Regulation 18)</i>	<i>December 2021 - February 2022 (completed)</i>
<i>Consultation on draft Kent Minerals and Waste Local Plan 2023-38 (Regulation 18)</i>	<i>October 2022 - November 2022 (completed)</i>
<i>Consultation on further proposed changes to the Kent Minerals and Waste Local Plan (Regulation 18)</i>	<i>June - July 2023</i>
Publication of draft updated policy (Regulation 19) for representations on soundness (Pre-Submission Draft)	Jan - Feb 2024
Submission to Secretary of State	May 2024
Independent Examination Hearings	July 2024
Inspector's Report	November 2024
Adoption	February 2025

As outlined in the table above, the County Council can confirm that the Local Plan has been prepared in accordance with the Council's Local Development Scheme, with the final stage to date being that the Plan was submitted to the Secretary of State for Independent Examination in May 2024.

It should be noted that the County Council had anticipated that the Independent Examination Hearings would take place in July 2024, however these are currently scheduled for September. In light of this, an amendment is proposed to the timetable for activities post submission of the Local Plan in a revised LDS that is to be reported to the Growth, Economic Development and Communities Cabinet Committee in September 2024.

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)

- 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?

In answer to the first part of this question, 'Does the Sustainability Appraisal provide clear evidence to indicate why, having considered reasonable alternatives, the strategy in the Plan is an appropriate response?', please refer to the Council's response to question 5 included in the Inspector's Preliminary Matters (ED09).

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In response to the second question, the methodology for preparing the Sustainability Appraisal (SA) does conform to the National Planning Policy Framework and Planning Practice Guidance in the following ways:

Systematic Process

The process of preparing the SA was a systematic one that initially identified an SA framework which was used to appraise the policies in the Plan. The SA framework includes sustainability objectives derived from a review of existing plans, policies and projects in the Plan area which might impact the way in which minerals are supplied and waste is managed. Baseline variables which indicate the health of the environment, the economy and society in Kent were reviewed to establish the presence of particular issues in Kent which need to be addressed.

Each policy in the Plan was appraised against each of the objectives in the SA framework to establish how implementation of the policy might impact on the objectives.

To ensure the SA framework properly reflects issues in Kent, an SA Scoping Report was produced and consulted upon in December 2021. The SA framework was updated in light of the comments received.

Reasonable alternatives

Reasonable alternatives were generated for appraisal. This is explained in the response to the Inspector's Preliminary Matters (ED09) mentioned above. The policies and reasonable alternatives were appraised, and results were reported together with recommendations for changes to the policies.

Iterative process

The appraisal process was an iterative one. The response given to question 4 in the Inspector's Preliminary Matters (ED09) explains this in detail.

Public participation

Each SA was published for consultation with the draft Plan to which the appraisal related. The Council's response to question 5 included in the Inspector's Preliminary Matters (ED09) sets out the consultation stages.

Recommendations

The SA included recommendations concerning changes to the Plan. The recommendations and the Council's response to these recommendations is set out in the 'Plan-maker's response to sustainability appraisal' (May 2024) (SD10).

7. Is there clear evidence to indicate why, having considered reasonable alternatives, the Plan's strategy is an appropriate one?

This appears to be a repeat of the question included in Question 6 above. As above please refer to the Council's response to question 5 included in the Inspector's Preliminary Matters (ED09).

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8. Does the Habitat Regulations Assessment comply with relevant legal requirements, and is there any substantive evidence to indicate that its conclusions are incorrect?

Yes. The Habitats Regulation Assessment (HRA) (January 2024) (SD07) was completed by the County Ecologist in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). The HRA was completed by following the key steps set out below:

Screening

An initial screening was conducted to determine whether the Kent Minerals and Waste Local Plan 2024-39 could have a significant effect on any European site in Kent. This step involved a thorough review of the potential impacts on Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and is set out in Section 3 of the HRA. Likely significant effects were screened out from any proposed updates to policies with the exception of Policy CSW17 which extends the range of permitted operations at the Dungeness nuclear sites to be consistent with relevant national policy and guidance.

Appropriate Assessment

Following the screening, an Appropriate Assessment was carried out to identify any significant effects of the proposed revised wording of Policy CSW 17. This assessment evaluated the implications of the policy in the Plan on the conservation objectives of the relevant European sites in the Dungeness peninsula.

Consultation

Public consultation on the HRA was undertaken to help ensure that all potential impacts were adequately considered and proposed mitigation was satisfactory. Natural England were engaged throughout the process and provided comments on the draft screening report and the draft HRA itself. The Statement of Common Ground between Natural England and Kent County Council (SD12) confirms Natural England's view that the HRA is fit for purpose.

Mitigation Measures

Potential impact pathways were identified that may result from the operations that would be permitted under the proposed revisions to Policy CSW17. Where necessary, mitigation measures were proposed and incorporated into the plan to avoid, reduce, or offset any adverse effects on the European sites. In particular, changes to Policy CSW17 were made to accommodate the findings of the HRA.

Conclusion

The HRA concluded that, with the implementation of the proposed mitigation measures, i.e. changes to Policy CSW17, the plan will not adversely affect the integrity of any European site either alone or in combination with other plans or projects.

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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?

The KMWLP, along with the Kent Mineral Sites Plan, forms the Development Plan for determining planning applications related to minerals and waste development in Kent. The KMWLP includes policies that address strategic priorities for the development and use of land for mineral supply and waste management in Kent.

The KMWLP includes strategic policies in Sections 5 (minerals) and 6 (waste) which will ensure that development is aligned with the vision and strategic objectives for sustainable waste management and mineral supply in Kent. These policies ensure that infrastructure associated with the supply of minerals and management of waste will be developed in appropriate locations which include those which prevent unacceptable adverse impacts on the environment and communities.

One example of a strategic policy is Policy CSM2 ('Supply of Land-won Minerals in Kent'). This policy outlines the strategic approach to ensuring a steady and adequate supply of minerals to meet the needs of Kent and beyond. This strategic policy helps guide the sustainable supply of minerals in Kent, balancing economic needs with environmental and community considerations.

The Plan evidence base includes a document entitled 'Management Requirements for Local Authority Collected Waste in Kent' (EB08). This sets out predicted management requirements for Local Authority Collected Waste (LACW), which includes all household waste produced in Kent, through to 2040. Section 3 of EB08 sets out how the predicted growth in housebuilding may affect arisings requiring management. Following the process set out in Planning Practice Guidance different growth profiles were generated and assessed. This found that growth profiles were actually negative ranging from minus 1.60% through to minus 1.71%. However, to ensure that the Plan did not underprovide, the forecast selected assumed a positive annual growth rate of 0.20%. This reflected the growth rate already used to generate the evidence base for the adopted version of the KMWLP.

With regard to the potential relationship between the KMWLP and planned growth in the county, the potential changes to house building rates and demand from other development over the Plan period will inform the annual LAA sales data as part of the monitoring process. In turn, this will affect the 10-year sales average of aggregate minerals which is used to determine aggregate supply and maintenance of landbanks. The system used by the County Council is based on national methodology and is inherently sensitive to changes in aggregate demand. Therefore, the County Council's plan making process is able to adjust to meet increased demand through the plan, monitor and review process.

Monitoring in the LAA would demonstrate the level of landbank certainty over the Plan period and review processes would enable steps to be taken to address any potential shortfall in a timely manner. Monitoring indicates that there is sufficient landbank supply to meet Kent's current development needs. Policy CSM2 links demand for aggregate to the LAA and ensures that the latest data is taken into account when assessing applications for additional supply.

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The County Council engages in consultations on the District and Borough Council Local Plans and strategic applications. This aids understanding of growth across the county.

Policies concerned with safeguarding and prior extraction in the KMWLP form part of the Development Plan that the District Councils are expected to apply when making decision on site allocations and development proposals. This is confirmed within Statements of Common Ground between the District and Borough Councils and the County Council. The Safeguarding Supplementary Planning Document explains application of the policies in more detail.

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?

In respect of the Kent Minerals and Waste Local Plan and the Kent Mineral Sites Plan, please refer to the Council's response to question 7 included in the Inspector's Preliminary Matters (ED09).

Insofar as policies within District and Borough Local Plans are concerned, these are a matter for the District and Borough LPAs. Any adopted Local Plan needs to have satisfied climate change adaption and mitigation requirements in legislation and the NPPF.

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.

Section 149 of the Equality Act requires that a public authority must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

An Equalities Impact Assessment (EqIA) was originally undertaken when the Kent Mineral and Waste Local Plan (KMWLP) was subject to an Early Partial Review (EPR) in 2020, and this was updated for the full review of the KMWLP. As a result, the assessment of potential impact on equality was updated through the Plan-making and review process to assess and identify any equalities impacts. The latest EqIA (SD09) concluded that while waste and minerals developments have the potential to have impacts on communities, these impacts were not assessed to have a disproportionate impact on people sharing any protected characteristic, and that the benefits of sustainable minerals and waste planned development apply across all of society including any members with protected characteristics.

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'?

The County Council is an active member of the 'South East England Aggregate Working Party' (SEEAWP) and the 'South East Waste Planning Advisory Group' (SEWPAG). Engagement with these groups throughout the preparation of the Kent Minerals and Waste Local Plan 2024-39 is detailed further in the Duty to Cooperate Report (SD03) (May 2024).

Mineral and waste planning authorities in the South East and industry representatives from the membership of SEEAWP and SEWPAG and their involvement is implied in paragraph 1.1.4 of the Plan. The County Council could consider the addition of text in the Introduction of the Plan to reference SEEAWP and SEWPAG via a modification should the Inspector consider this appropriate.

13. Should reference be made to the 'Mineral Sites Plan' and its relationship with the Minerals and Waste Plan and timescales for its update?

Paragraph 1.1.3 of the Kent Minerals and Waste Local Plan 2024-39 refers to the Kent Mineral Sites Plan (KMSP) and states that the specific sites for mineral developments are set out in the separate KMSP. Furthermore, Policy CSM 2 provides further details on the sharp sand and gravel sites and soft sand site that is allocated in the adopted KSMP 2020.

If the Inspector consider this appropriate, the County Council could consider the addition of text in the Introduction of the Plan to further explain the relationship of the Local Plan with the Kent Mineral Sites Plan via a modification.

With regards to the timescales for the update of the Kent Mineral Sites Plan, this is set out in the County Council's Local Development Scheme (LDS) (EB14). Legislation requires local plan making work to be undertaken in accordance with a published timetable or 'Development Scheme' and the County Council considers that the LDS would be the most appropriate method of outlining timescales in relation to the Kent Mineral Sites Plan update.

14. Should reference be made to the Environmental Permitting regime and its relationship with granting of planning permissions for waste facilities?

Paragraph 1.5.1 of the Plan sets out that in determining a planning application, the County Council and its partner planning authorities will recommend that where

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significant issues are identified, other consents, such as environmental permits, be sought in parallel to submission of the planning application so that any issues can be resolved as early as possible. Paragraph 1.5.2 recognises the roles of the planning and permitting authorities. Paragraph 7.0.2 also states that the Development Management policies of the Plan avoid duplication with other regulatory functions, such as the environmental permitting regime carried out by the Environment Agency. The County Council therefore considers that the Plan is effective in not duplicating this requirement, however the County Council could consider the addition of text in the Introduction of the Plan to further explain the Environmental Permitting regime and its relationship with granting of planning permissions for waste facilities via a modification should the Inspector consider this necessary.

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?

The County Council does not consider that the transportation of minerals and waste, as a result of the policies contained in the Plan, would compromise the prime function of the Strategic Road Network (SRN). Circular 01/2022 relates to the SRN and the delivery of sustainable development, setting out that the principal purpose of the SRN is to enable safe, reliable and predictable, efficient, often long-distance journeys of both people and goods. Furthermore, in relation to plan-making, the Circular sets out that policies and allocations that result from plan-making must not compromise the SRN's prime function to enable long-distance journeys of people and goods. This is considered consistent with the movement of minerals and waste, particularly the movement of bulk materials via Heavy Goods Vehicles (HGVs) of which the SRN is intended to facilitate. This is echoed throughout the Plan, in particular Policy DM 13 in relation to the transportation of minerals and waste which sets out that minerals and waste development will only be acceptable where the proposed access roads are suitable for their purpose. Development will be required to demonstrate, amongst other things, that the nature of movements associated with proposed development is not detrimental to road safety, and that the highway network is able to accommodate the generated traffic flows.

Should the Inspector find it necessary, reference to Circular 01/2022 could be inserted in section 1.3 of the Plan as a helpful reference.

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?

Paragraph 2.1.4 refers to Kent being a member of The South East Local Enterprise Partnership (SELEP). However, it should be noted that since the Regulation 19 consultation and the submission of the Local Plan to the Secretary of State for Independent Examination, the SELEP no longer exists. From 1st April 2024, the activities that have been undertaken by South East LEP to support local growth are to be undertaken by local authorities. Kent County Council is part of the Kent and Medway Economic Partnership (KMEP) which sets an economic strategy for Kent in its Kent and Medway Economic Framework 2024. The Framework has three

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objectives looking to 2030 – to make Kent and Medway’s economy more productive, sustainable and more inclusive. To help deliver the three objectives, action is to be focused on five ‘ambitions’ that seek to enable innovative, productive and creative businesses, widen opportunities and unlock talent, secure resilient infrastructure for planned, sustainable growth, place economic opportunity at the centre of community wellbeing and prosperity and create diverse, distinctive and vibrant places. KMEP has no direct role in plan making, although the success of its strategy is dependent upon the delivery of a sustainable mineral and waste strategy.

Therefore, the County Council suggests the removal of paragraph 2.1.4 and any other necessary amendments to the Plan to remove reference to the LEP and replace with references to KMEP via modifications should the Inspector consider this appropriate.

17. Should paragraph 2.2.1 reference Regionally Important Geological Sites?

Paragraph 2.2.2 and Figure 7 of the Plan makes reference to Local Geological Sites which are considered of particular importance at a county level and make a contribution to geological conservation. This would include any sites that are designated or known as Regionally Important Geological Sites. The County Council could consider the addition of text in the Plan and its glossary to reference Regionally Important Geological Sites via a modification should the Inspector consider this appropriate.

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?

Paragraph 2.2.3 recognises the importance of identification of Biodiversity Opportunity Areas (BOAs) that present opportunities to contribute to large-scale biodiversity conservation in Kent. Objective 9 and objective 15 of the Strategic Objectives recognise that where possible, after-uses should conserve and improve local landscape character, and provide opportunities for improvements in biodiversity which meet and, where relevant, exceed targets outlined in the Kent Nature Partnership Biodiversity Strategy 2020 to 2045, the Biodiversity Opportunity Areas, National Landscape Areas (previously known as Areas of Outstanding Natural Beauty (AONB)) Management Plans and Local Nature Recovery Strategies to help maximise overall net-gain in biodiversity on restoration.

Policy DM 19 includes detailed criteria for restoration, aftercare and after-use. It seeks to require all development to achieve at least 10% biodiversity net gain and demonstrate how maximum practicable on site biodiversity net gain shall result from the development. Amongst other matters, restoration proposals are required to address biodiversity opportunities and constraints ensuring connectivity with surrounding landscapes and habitats.

19. Are there any updates to the establishment of ‘The Local Nature Recovery Strategy’ (LNRS) as referenced in paragraph 2.2.6?

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The Kent Nature Partnership sets out that Kent and Medway will be covered by one Local Nature Recovery Strategy (LNRS), of which Kent County Council is the responsible authority, as appointed by the Secretary of State. The Kent and Medway LNRS will be developed outside of the Kent Nature Partnership official framework and but will rely heavily on established partnerships and the relationships over the years. Regulations and guidance for the LNRS was published at the end of March 2023 and is it anticipated that the strategy will be complete for May 2025 and delivered by a wide range of stakeholders. Preparatory work on the Kent and Medway LNRS has commenced, and the secondary legislation on the LNRS is awaited. The Draft Priorities and Potential Measures for the LNRS were published for consultation by Making Space for Nature in July 2024 with comments invited by the 18th August 2024. Therefore, the text of paragraph 2.2.6 of the Local Plan, which set out the position at the time of drafting the Plan, remains applicable at this time.

20. Does the Spatial Vision adequately address biodiversity and climate change impacts?

Yes, the County Council is confident that the Spatial Vision, when read as a whole, addresses biodiversity and climate change impacts. Point 1 of the Vision recognises the importance minerals and waste development can play (in Kent and beyond) in contributing towards a low carbon economy. Point 4 acknowledges the natural (and historically) rich and sensitive environment of the plan area and the need to safeguard it for future generations. Points 5 and 6 seek to provide for a sustainable supply of land won minerals and facilitate the use of secondary and recycled aggregates, whilst point 8 makes provision for sustainable benefits to Kent communities through restoration to a high standard. Point 9 supports the achievement of a circular economy when planning for waste management in Kent, to ensure the maximum reuse of materials and goods, minimising waste and ensuring its management is sustainable and takes place as high up the Waste Hierarchy as possible.

The policies within the Plan also support the delivery of the Spatial Vision and in particular attention is drawn to policy DM1 Sustainable Design, DM2 Environmental and Landscape Sites of International, National and Local Importance, DM3 Ecological Impact Assessment and DM19 Restoration, Aftercare and After-Use.

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?

The Plan adequately reflects the national and local economic benefits of mineral extraction, and the contribution that these developments may make in supporting the rural economy. Point 2 supports the needs arising from growth in Kent in particular and point 3 supports the delivery of sustainable solutions to the minerals and waste needs of Kent (and beyond) through collaborative working with communities, landowners, the minerals and waste industries, the environmental and voluntary sector and local planning authorities. Point 5 supports the delivery of a sustainable, steady and adequate supply of land-won minerals to support the economy and growth, whilst point

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7 recognises the importance of safeguarding economic mineral resources for future generations.

Policy DM 2 recognises the importance of considering the impact of proposals on the local economy and Policy DM1 seeks to minimise the loss of Best and Most Versatile Agricultural Land.

22. How would the Plan's policies be effective in meeting objective 1 in terms of progressing to a low carbon economy?

Objective 1 of the Plan states 'encourage the use of sustainable, low carbon modes of transport for moving minerals and waste long distances and minimise road miles'. In relation to low carbon modes of transport as set out in objective 1, this is considered to be met predominately through Policy DM 13 which sets out that minerals and waste development will be required to demonstrate that emissions associated with road transport movements are minimised as far as practicable, and where development requires road transport, proposals will be required to demonstrate that the impact of traffic generated does not have an unacceptable adverse impact on the environment or local community, along with emission control and reduction measures. Furthermore, this is also considered to be met via Policy CSM 12 which sets out the principle for the sustainable transport of minerals.

In relation to reducing carbon emissions and a 'low carbon economy', this is considered to be met as a wider objective throughout the Plan as a whole, with a range of policies within the Plan seeking to achieve this. This includes Policy DM 1 which sets out the basis for sustainable design, particularly through the use of low carbon materials and the utilisation of low carbon renewable energy, and Policy CSW 2 which emphasises the importance of moving waste up the 'waste hierarchy' and consideration of the capture, utilisation and storage of emissions as set out in Policy CSW 8. This message is also underpinned by national and local policy with regards to low emissions.

Please also see the County Council's response to question 10 of the Matters, Issues and Questions which addresses how the Plan is considered to contribute to the mitigation of, and adaptation to, climate change.

23. How would the Plan's policies be effective in meeting objective 6 in terms of facilitating the use of secondary and recycled aggregate?

The Plan recognises that the use of secondary and recycled aggregates is more sustainable than extracting primary land-won aggregates (paragraph 2.3.10) and paragraph 5.2.20 notes the anticipated diminishing land-won sharp sand and gravel supplies will increasingly be substituted over the plan period by supplies from production of alternative materials, including secondary and recycled aggregates

Policies CSM 7 and CSM 8 make provision for maintaining and developing further secondary and recycled aggregates supplies during the plan period.

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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?

The County Council considers that the Policies referenced below are effective in meeting objective 8 in terms of the extraction of building stone for heritage buildings and sufficiently reference safeguarding specific resources.

Strategic objective 8 of the Local Plan states that in relation to minerals, the Plan will 'enable the extraction of building stone minerals for heritage building products'. The Plan is considered effective in meeting this objective firstly through the introductory text regarding Kent's economic mineral resources which sets Kent's complex geological history of economic mineral resources (paragraph 2.3.1) and the importance of building stone as an economic mineral particularly for use in specialist or conservation work (paragraphs 2.3.2 and 2.3.15).

The Plan is furthermore considered to effectively meet this objective through the implementation of Policy CSM 2 which sets out the supply of land-won minerals in Kent, in particular economic minerals of which building stone is considered. Moreover, and in relation to safeguarding specific resources, Policy CSM 5 states that building stone is one of the economic land-won minerals that is identified for safeguarding in Kent. It sets out that economic mineral resources are safeguarded from being unnecessarily sterilised by other forms of development by the development of, amongst other things, Mineral Safeguarding Areas for the areas of brickearth, sharp sand and gravel, soft sand (including silica sand), ragstone and building stone as defined on the Mineral Safeguarding Area Policies Maps in Chapter 9. A series of Mineral Safeguarding Area maps for each local authority area in Kent are available in section 9.2 of the Plan and detail the economic minerals that are safeguarded from sterilisation in Kent. Further information on safeguarding mineral resources is provided in Policy DM 7, which in particular, sets out the circumstances where non-minerals development may be acceptable at a location within a Mineral Safeguarding Area.

Policy CSM 9 specifically relates to Building Stone in Kent and is considered effective in meeting objective 8 in terms of the extraction of building stone for heritage buildings. This is due to setting out that planning permission will be granted for proposals that are needed to provide a supply of local building stone necessary for restoration work associated with the maintenance of historic buildings and structures and new build projects subject to several requirements.

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?

The Plan gives priority to planning for waste management developments that prepare waste for re-use or recycling (paragraph 6.2.4) and Policy CSW 2 outlines the need for proposals for waste management to demonstrate how the proposed capacity will ensure that waste to be managed at the facility will be managed at the highest level of the waste hierarchy practicable.

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26. How would the Plan's policies be effective in meeting objective 12 in terms of reducing the need to travel?

The Spatial Vision of the Plan outlines the County Council's ambition for sustainable resource management for (minerals and) waste development in the plan area and will ensure that waste is managed close to its source of production.

Paragraph 7.11.2 recognises the importance of reducing vehicle movements and facilitating more sustainable technologies (such as electric vehicles) in achieving the objectives of sustainable development.

The aim of Policy DM 13 is to minimise road miles and harmful emissions in relation to the transportation of minerals and waste across Kent. Road miles may also be reduced by providing a network of facilities including sites such as transfer stations where waste can be bulked up for onward transport.

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?

Yes. The use of the 10-year sales average and the extant permitted reserves for the soft sands (not silica sand) and sand and gravel aggregates, that are land-won in origin to project forward requirements over the life of the Plan (to 2039), is consistent with the NPPF (paragraph 219 a) and the PPG. This objective data, as collected by yearly Aggregate Monitoring (AM), is used to prepare the annual Local Aggregate Assessment (LAA) process that sets out the County Council's objectively assessed and reasoned supply requirements, based on the rolling 10-year sales average. This in turn informs the managed at least 7-year landbanks for the land-won aggregate minerals for the Plan period.

The Council's approach reflects the NPPF and considers other relevant local information. The methodology based on the 10-year sales average allows for fluctuations in growth (and demand) to be accommodated.

Silica sand (a Folkestone Formation deposit that is of higher purity) is an industrial sand and not an aggregate mineral and thus is required to be assessed differently. The Authority Monitoring Report details current reserves and extraction rates of silica sand of each site and estimates these where data is lacking. This establishes what the permitted reserve base is and the rate of extraction drawdown effect over the Plan period and whether sufficient reserves will continue to exist to meet the NPPF requirements. If the reserves fall below the required levels and proposals came forward, the Plan's policies would assess any proposal on its merits to either approve new sites or to permit extensions of existing sites against the NPPF requirements as set out in paragraph 220 c).

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?

Paragraph 220 of the NPPF does not require the quantity of industrial minerals to be made explicit in policy. The two important industrial minerals in Kent are the silica sand fraction of the Folkestone Formation and brickearth.

The NPPF does not require landbanks of these materials to be maintained. It requires planning authorities to plan for sufficient reserves to be permitted equivalent to 10 years, for individual silica sand sites to maintain existing plant, and 15 years, for silica

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sand sites where significant new capital is required, and for brick clay [analogous to brickearth] 25 years.

The reserve base is monitored yearly by the Authority Monitoring Report system (AMR). Therefore, if the reserve base of relevant industrial mineral falls below the NPPF specified levels then a case for permitting new reserves can be made by operators via planning applications. Importantly, AMR monitoring in the period during the preparation of the Kent Minerals and Waste Local Plan (KMWLP) 2024-39 showed that there was no need to increase the reserves of these industrial minerals for the industry that is in operation at this time utilising these minerals.

If the policy were to specify the required volumes it would soon become out of date and ineffective due to the annual fluctuations in sales and reserves which are collated on an annual basis in the AMR.

In terms of co-operating with neighbouring authorities, the Kent stock (also called London Stocks) brick industry is one that is highly particular to the brickearth deposits in the Sittingbourne and Faversham areas. This negates any useful co-operation with other mineral planning authorities. With regard to the silica sands the County Council is part of a data sharing process with the Mineral Products Association (MPA)/Silica Sand and Moulding Sand Association (SAMSA). The data sharing process has been commissioned by the British Geological Survey (BGS) to update silica sand data, that is shared with all UK mineral planning authorities, to disseminate data on reserves and active sites in Kent. Therefore, the County Council is co-operating with other authorities by informing the MPA and BGS and the trade organisation on Kent's position regarding the national supply of industrial silica sand. If Kent was considered an area of potential supply to meet a greater need than that occurring in Kent, operators and/or the MPA can relay that to the County Council during its plan making cycles. No such representation was made as part of the current plan making cycle.

29. How would the proposed redevelopment of Sevenoaks Quarry impact on the steady and adequate supply of land-won minerals in Kent?

The planning permission requires all the permitted reserves in Sevenoaks (Greatness) Quarry currently operated by Tarmac to be fully extracted ahead of the development of the site and so the proposed redevelopment of Sevenoaks Quarry would not have an unexpected impact on the steady and adequate supply of land-won minerals in Kent. This is further addressed in the signed Statement of Common Ground (SoCG) between the County Council and Sevenoaks District Council (ED12).

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?

Yes. Application of the policy relies on annual monitoring which indicates the extent to which additional reserves are needed. Aggregates are monitored via the LAA system that is updated and agreed annually with SEEAWP members, which include industry representatives. For industrial minerals, requirements are monitored in the AMR, again produced yearly. The Council's approach which is in accordance with the nationally agreed methodology for monitoring mineral need requirements allows for changes in

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rolling sales averages and re-evaluations of reserves. Both of which can change dramatically from year to year, and certainly in the 15 years over the proposed Plan period. Thus, any emerging shortfalls that may occur will become apparent, allowing action to be taken well before any significant lack of reserves materialises. This objective assessment approach ensures that the Plan is robust and provides a steady and adequate supply of minerals over the course of the Plan period and seeks to ensure that sites come forward in a timely manner.

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?

The Hythe Formation (Kentish Ragstone) of the Lower Greensand Group is a massive geological formation, that in Kent is composed of alternating bands of hard sandy limestone (15cm to 60cm in thickness) and a loose clay type material called Hassock. Evidence of past extraction for building use occurred across the whole geological unit that stretches east west across Kent into Surrey from the time of the Roman occupation to present day. However, in more recent times (late 20th Century into the 21st Century) use as a construction stone has reduced, this is recounted by Historic England in their Strategic Stone Study, A Building Stone Atlas of Kent, first published by English Heritage October 2011 Rebranded by Historic England December 2017, page 8:

The use of Ragstone went into decline during the 17C as other materials (brick, Portland or Bath stone for example), became more fashionable and readily available. Nonetheless, quarrying continued, and extraction from underground mines in the Maidstone area is well-known. By the late 20C, however, Ragstone was used very little for building purposes.

The Ragstone resource is safeguarded by other policies in the Plan.

The focus of current extraction is in the Maidstone area within the Boughton Group of the Hythe Formation. This has both high grade (the hard and masonal sandy limestone bands that can be used for aggregate production for use in structural concrete) and lower strength bands that can form aggregate for lower specified uses such as buried concrete and road construction. The extraction of Ragstone as a building stone occurs as a secondary activity to the main aggregate working. The extraction now occurring is overwhelmingly for meeting the needs of the aggregate uses, with demand for Ragstone as a building stone being a small fraction of this total output. Provided a steady and adequate supply of reserves exist to meet the main aggregate demand, then the need for building stone would be provided for during the lifetime of the permitted reserve.

Were an additional site to be permitted as the extraction for aggregate, this would allow production of further building stone for restoration and vernacular purposes. This would be delivered by planning conditions in line with the Secretary of State's earlier decision on the existing site. If an extension were to be allocated, then this would also include development management criteria to secure a percentage of building stone as part of any development. The working of the Ragstone site solely for a building stone, is unlikely to be viable.

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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?

The three sites in the adopted Mineral Sites Plan (MSP) 2013-2030 were allocated to provide additional certainty with regard to future supplies of:

- Soft Sand; and
- Sharp Sand and Gravels

These allocations are concerned with providing an adequate and steady supply of aggregates over the period to 2030. This did not, at the time include hard (crushable) rock and this is explained further below.

With regard to the Soft Sand supply, the use of 2018 data determined that the reserves at that time, and an allocation of 3.2mt at the allocated site (Chapel Farm, Lenham) in the Mineral Sites Plan would produce an overall surplus of 1.122mt at the end of the Plan period (2030). This was considered an appropriate level of provision, meeting Kent's needs and making a suitable contribution to wider South East requirements as set out in the Soft Sand Position Statement, signed by the South East mineral planning authorities.

Monitoring, via the LAA, showed that that the rolling 10-year sales averages had fallen and reserves, on re-evaluation, had increased. In light of this it was found that the full 5.0mt reserve requirement originally stipulated in the 2016 policy was not required to maintain an at least 7-year landbank.

Since 2020 and the adoption of the MSP, further data has shown that the rolling 10-year sales average has increased, and the reserves reduced. This, and the extended Plan period to 2039 means a deficit of 2.15mt is predicted if a 7-year landbank (3.324mt) is to be maintained at the end of the Plan period. This takes account of the 3.2mt of potential reserves at the Chapel Farm allocation. However, current published data (LAA2023 using 2022 data) shows exhaustion of soft sand reserves will not occur over the Plan period and a 7-year maintained landbank will remain until at least 2036. Furthermore, a degree of 'windfall' reserves are anticipated, in the region of 1.0+mt, arising from the development of sites allocated in Kent district and borough local plans located within the Folkestone Formation. This would further mitigate the need to identify additional sites at this time.

As reports of sales and reserves can vary significantly from year to year, and in light of the healthy position with regard to reserves, it is considered premature to pursue allocation of further soft sand reserves at this time. In the event that monitoring over the next five years reveals that the period over which a 7-year landbank can be maintained has shortened than further allocations will be sought. It is also of note that the PPG advises in managing supply, that landbanks should be used principally as a trigger for a mineral planning authority to review the current provision of aggregates in its area and to consider whether to conduct a review of the allocation of sites in the plan. In doing so, it may take into account the remaining planned provision in the minerals local plan.

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With regard to sharp sand and gravels the adopted KMWLP, based on LAA data for 2018, determines that the maintenance of a 7-year land bank, up to and at the end of the Plan period (to 2030), would require reserves of 13.26mt. The MSP allocates two sites (Moat Farm and Stonecastle Quarry extension) for a total of 2.50mt. This was in response to the policy requirement to maintain an at least 7-year landbank (5.46mt) with 10.08mt of reserves, 'while resources allow'. Of all the sites promoted as allocations in the adopted MSP, only two were deemed acceptable and so it was recognised that this superficial deposit (mainly Sub Alluvial River Terrace deposits) was reaching sustainable exhaustion. One site that would have yielded significant potential reserves (Lydd Quarry extension, a storm beach shingle ridge deposit at Lydd, near Dungeness) was found to be environmentally too sensitive to allocate due its location within a SSSI designated to protect a unique geomorphological feature and its potential impact on the SPA and SAC. The adopted KMWLP recognises that land won supplies are significantly supplemented by secondary/recycled aggregates and importation of primary aggregates mainly from the marine dredged sector.

In LAA2023 (2022 data) monitoring showed an overall reduction in sales, as sites have become exhausted and/or experienced low rates of extraction, thus the rolling 10-year sales average has reduced. The reduction in the 10-year sales average has caused the 7-year landbank to decrease and so the period over which it can be maintained has extended. Now, with the small, but important, contribution of 2.50mt from the allocated sites there will be a surplus of 0.682mt over the Plan period to 2039, while maintaining an at least 7-year landbank to the end of the Plan period. Therefore, even if acceptable sites could be found, their allocation in a revised MSP at this time is not justified. Similarly, there is no justification for the deallocation of the two allocated sharp sand and gravels sites in the adopted MSP.

Hard (crushed) rock allocations are not represented in the adopted MSP, as at the time of its Independent Examination in 2020, hard rock reserves and the rolling 10-year sales average indicated that there was sufficient supply already permitted to meet demand that could be anticipated to 2030 and beyond. However, the combination of a new Plan period to 2039, the County Council's approach to maintain a 10-year landbank at the end of the Plan period, a rapid increase in sales above 1.0mtpa in recent years and a re-evaluation of available reserves, means that allocation of additional reserves, if possible, to meet needs is now justified. Therefore, work on a possible allocation in the MSP to secure additional potential reserves to meet an anticipated 17.38mt (as set out in LAA2023 (2022 data)) is underway.

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?

The Plan's Development Management policies, as indicated below, would ensure that any significant constraints or identified adverse impacts related to any development proposals of the Mineral Site Plan allocations are overcome/mitigated to an acceptable level.

Policy DM 1: Sustainable Design

Policy DM 2: Environmental and Landscape Sites of International, National and Local Importance and Policy DM 3: Ecological Impact Assessment ...

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Policy DM 4: Green Belt

Policy DM 5: Heritage Assets and Policy DM 6: Historic Environment Assessment.

Policy DM 7: Safeguarding Mineral Resources

Policy DM 8: Safeguarding Minerals Management, Transportation, Production & Waste Management Facilities

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

Policy DM 10: Water Environment.

Policy DM 11: Health and Amenity

Policy DM 12: Cumulative Impact

Policy DM 13: Transportation of Minerals and Waste

Policy DM 14: Public Rights of Way.

Policy DM 15: Safeguarding of Transportation Infrastructure

Policy DM 16: Information Required in Support of an Application

Policy DM 17: Planning Obligations

Policy DM 18: Land Stability

Policy DM 19: Restoration, Aftercare and After-use

Policy DM 20: Ancillary Development

Policy DM 21: Incidental Mineral Extraction

In addition, each allocation in the Mineral Sites Plan sets out detailed development management criteria that would need to be satisfied. Prior to the site's allocation, each site underwent rigorous selection intended to show that in principle no unacceptable adverse impacts would result and this was considered in detail at the examination hearing for the Mineral Sites Plan in October 2019.

Furthermore, national planning policies and planning guidance would also be relevant as material considerations for the determination of planning applications for the MSP allocations.

34. Section 3 of this policy refers to silica sand. Is this element of Policy CSM 2 justified, effective and consistent with national policy?

Yes, the policy in relation to silica sand (an industrial mineral) is in accordance with national policy.

The NPPF requires that mineral planning authorities maintain a steady and adequate supply of industrial minerals by maintaining a stock of permitted reserves to support the actual level and proposed investment required for new or existing plant, and the maintenance and improvement of existing plant with reserves being at least 10 years for individual silica sand sites and 15 years for silica sand sites where significant capital is required (NPPF paragraph 220 c) and footnote 78). Policy CSM 2 seeks to achieve this and is therefore consistent with national policy.

Given the need to plan separately for industrial minerals and Planning Practice Guidance that recognises the differences in geology, physical and chemical properties, markets and supply and demand between different industrial minerals, CSM 2 seeks to ensure that the policy requirements relate to silica sand and that the material is reserved for industrial end uses.

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In considering any application for silica sand proposals, it is noted that proposals would also need to be determined against other relevant development plan policies.

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?

Yes, Section 6 of the policy sets out a list of requirements that are inherent to the process of sustainable site selection and are necessary to deliver the mineral supply strategy of the Plan. These include amongst other matters, consideration of biodiversity and conservation interests.

Any allocation in the Mineral Sites Plan would have to be in accordance with the quantity of mineral set out in Policy CSM 2. Any allocation would need to satisfy the Development Plan policies which address a wide range of planning considerations including the impacts on water environment, historic environment, biodiversity conservation and biodiversity net gain, land stability, cumulative impacts, health and amenity impacts, highway considerations, landscape designations and restoration and aftercare requirements. The district and borough council local plans and neighbourhood plans form part of the Development Plan and are therefore relevant consideration for future allocations.

Strategic environmental information, including Strategic Flood Risk Assessment, and Habitat Regulations Assessment (HRA) are part of the legislative requirements to assess the sustainability and appropriateness of any allocation as supported by the NPPF. Similarly, landscape assessments are an integral part of the assessment process, particularly where designated sites are affected. The need for allocations to be deliverable is assessed by establishing whether there is a clear intention by the landowner, and ideally an operator, to develop the allocated land in the manner proposed. A bullet point is also included to allow for changes in national policy and guidance which may affect the identification of sites suitable for allocation.

Section 6 of Policy CSM 2 is therefore considered justified and consistent with national policy as the matters listed are all material to deciding whether land is suitable for allocation and supported by NPPF and planning guidance. It is also of note that the text has previously been found as effective as it is the same as that in the 2016 adopted Plan and informed the allocation of the sites in the current Minerals Sites Plan in 2020.

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?

Yes. Section 6 sets out the approach that should be taken with regard to the assessment of sites for allocation. This section addresses other relevant national planning policy and guidance, which would include the NPPF's requirement to consider flood risk from all sources and where necessary the need to undertake sequential tests. These would form part of a Site's Plan Strategic Flood Risk Assessment (SFRA). The adopted Mineral Sites Plan identifies the need for flood risk to be taken into account in development management criteria which relate to allocated

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sites, this demonstrates that this is a matter considered during the site selection process. Attention is also drawn to second bullet point of Section 6 of the policy which requires consideration of the Plan's relevant Development Management Policies of which policy DM 10 would be particularly relevant

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?

Footnotes 54 and 55 to Policy CSM 2 are intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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?

Yes, this policy is intended to address proposals for sites needed to meet requirements for mineral extraction which may arise from a future need which has not been specifically identified at this time. This could include a proposal related to the extraction of any number of the safeguarded sandstones in the west of the county that may yield building stone for such uses as for historical structure repair. The same could apply to the need for further engineering clay reserves. The need for this material is somewhat unpredictable and may vary as a consequence of changes over the plan period that are not currently predicted, such as need for this material for sea defence purposes that are at present not identified.

Therefore, the policy is allowing for unforeseeable circumstances of mineral needs for which allocations in the MSP would not be justified at this time. The policy ensures that determination of any application considers the rest of the Plan's Vision and Objectives and Development Management policies.

Policy CSM 11: Prospecting for Carboniferous Limestone

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

Yes. Exploratory drilling for mineral prospecting is a permitted development right under Class J of Part 17 of the Town and Country Planning (General Permitted Development) (England) Order 2015. It states:

Development on any land during a period not exceeding 28 consecutive days consisting of-

- (a) the drilling of boreholes;*
- (b) the carrying out of seismic surveys: or*

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(c) the making of other excavations,

for the purpose of mineral exploration, and the provision or assembly on that land or adjoining land of any structure required in connection with any of those operations.

Given the extent of the area where deep limestone mining prospecting may occur it is reasonable to regard that one or more of the permitted development exclusions to this permitted development may apply. Therefore Policy CSM 11 seeks to ensure that any extensive exploration activity that goes beyond permitted development rights is clear in that there is a need to gain planning permission. The KMWLP is to be applied as a whole to decision making and so the development management policies would also apply to any planning application determination. In particular, Policy DM2 requires consideration of potential impacts on biodiversity and the need for mitigation measures to make such impacts acceptable.

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?

Yes, the policies are an integral part of the mineral safeguarding strategy and seek to ensure that the Mineral Planning Authority can supply a steady and sustainable source of minerals and raw construction materials to support development. The policies are drafted in accordance with the NPPF and planning practice guidance. The Mineral Safeguarding Areas (MSA) are taken from British Geological Survey (BGS) data under licence which provides an understanding of the distribution of the economic minerals in Kent. Applying the MSAs ensures applicants and the district and borough planning authorities can determine if there are land-won mineral safeguarding matters to be addressed in relation to development proposals or local plan allocations. The Mineral Consultation Areas (MCA) system is one that local authorities in Kent can use to be part of their planning application validation activity in order to ensure applications coincident with MSA are known at the commencement of the planning application validation and consultation processes.

Policy CSM 6 specifically identifies Kent's safeguarded wharves and rail depots used to transport mineral products. Maps of safeguarded sites are included in Chapter 9: Adopted Policies Maps of the Plan. This enables applicants and other planning authorities to determine if there are safeguarding matters in relation to development proposals or local plan allocations that either directly affect or are within 250m of these safeguarded facilities and are required to be considered in relation to their safeguarded status.

Similarly, Policy CSM 7 safeguards all permitted permanent mineral infrastructure such as sites for concrete batching, the manufacture of bituminous coated stone materials, other concrete products and the handling and processing of secondary and recycled concrete materials.

Exemptions from safeguarding are set out in policies DM 7 and DM 8. As the Plan has to be read as a whole, reproducing the possible exemptions in the strategic safeguarding policies would be unnecessary repetition. The supporting text to policies CSM 5, CSM 6 and CSM 7 make adequate reference to the criteria based exemptive policies DM 7 and DM 8.

Policies DM7 and DM8 were revised as part of the Early Partial Review in 2020 and extensively discussed as part of the Examination Hearings in 2019 before being found
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sound. The safeguarding policies and explanatory text are not being revised from the current adopted Plan which has proved effective in safeguarding minerals and their supporting infrastructure.

The Council also adopted a revised Supplementary Planning Document (SPD) on Safeguarding matters in 2021 that explains the safeguarding process in more detail. This SPD was originally published and adopted in 2017. As part of the Early Partial Review (EPR) of the Kent Minerals and Waste Local Plan, changes were made to the mineral and waste safeguarding policies DM7 and DM8. During the examination of the Plan, the County Council committed to review its Safeguarding Supplementary Planning Document to provide greater clarity and guidance as to how safeguarding policies should be implemented. The 2021 document was produced to meet this commitment.

41. Should these policies (or their supporting text) require developers to provide evidence of pre-application engagement with mineral site/infrastructure operators?

Whilst not a policy requirement to require pre-application engagement with mineral site/infrastructure operators, there is merit to such discussions. The adopted Safeguarding Supplementary Planning Document (SPD) strongly encourages discussions with the operators of any existing facilities to get an idea of the scope of any mitigation measures that may be required. Policies DM7 and DM8 both cross refer to the Safeguarding SPD.

42. Policy CSM 6 refers to footnote 61. Should this information be included in the policy itself to ensure that it is effective?

Footnote 61 to Policy CSM 6 is intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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?

The supporting text to the policy specifically cites the role of transportation (of minerals) to contribute towards greater sustainability through aspiring towards carbon neutrality by encouraging sustainable transportation of minerals by rail and water where possible. This would support the drive towards mitigating the effects of anthropogenic climate change. The use of lower emission vehicles and potentially zero-emission vehicles is a matter that is beyond the lawful scope of the Plan, as this would be contingent on a viable technological advance and potentially law that is not based on planning law. Therefore, the policy's supporting text can only justifiably be

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limited in advocating a shift towards the greater inherent sustainability of rail and water borne transportation where possible, as opposed to an unchallenged continued reliance on road transportation of minerals to affect their distribution to markets.

44. How does this policy, or indeed the Plan, seek to promote the most sustainable modes of transport?

The policy seeks to encourage the transition from carbon intensive road-based transportation of minerals by being permissive for new and rejuvenated wharf and/or rail depot development, where appropriately located close to arterial road linkages and are compatible with other development plan policies. In doing so, this would have the effect of gaining greater sustainability through less carbon intensive transportation from the point of extraction to the point of use through the 'economies of scale' principle. Thus, reducing both carbon emissions and other, potentially harmful, emissions while maintaining an adequate and steady supply of mineral as required by the NPPF (2023) Part 17, paragraph 219. What the policy would not be justified in doing, nor be consistent with national policy if it were to require mineral transportation be achieved by low to potentially zero-emission vehicles, either on adoption or over a staged period of the Plan to 2039, as this would be dependent on matters outside the lawful scope of the Plan to achieve.

Other parts of the Plan recognise the need for sustainable transport as follows:

- Strategic Objective 1 encourages 'the use of sustainable, low carbon modes of transport for moving minerals and waste long distances and minimise road miles.
- Policy CSM6 safeguards sustainable transport infrastructure in the form of wharves and rail depots. Such facilities allow the bulk transport of minerals and waste by rail and water.
- Policies CSM8 and CSW4 incorporate the proximity principle, which aims to manage waste as close to its source as possible, thereby reducing transport distances and associated environmental impacts.
- Policy CSW6 encourages waste facilities to be well located to be 'well located in relation to Kent's Key Arterial Routes, and/or railheads and wharves avoiding proposals which would give rise to unacceptable adverse impacts on local roads and/or villages'
- Policy DM 13 is intended to ensure road miles and harmful emissions from minerals and waste transportation are minimised
- Policy DM17 includes 'measures to encourage use of non-road modes of transport where practicable' in its list of matters for which planning obligation may be sought.

45. Policy CSM 12 refers to footnote 65. Should this information be included in the policy itself to ensure that it is effective?

Footnote 65 to Policy CSM 12 is intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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?

Yes, the policy is justified in that the NPPF (2023) requires planning policies to, as far as practical, take account of the contribution that substitute, or secondary and recycled materials would make to the supply of materials (construction aggregates). The policy seeks to maintain a level of at least 2.7 million tonnes per annum, or that which is assessed in the latest LAA (whichever is the greater). This would ensure that the drive towards a greater degree of sustainability (and therefore a greater contribution to the drive towards a circular economy) in construction aggregate supply is effectively achieved.

Any proposal for the management of secondary and recycled aggregates would be considered against all the relevant policies of the Plan including policies DM2 and DM3 which are specifically concerned with the protection and conservation of biodiversity.

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?

This is addressed by Policy CSW3 - Waste Reduction. The supporting text provides information on how the policy will be applied. Policy CSW3 forms part of the Development Plan which needs to be applied alongside any appropriate policies in the District and Borough Local Plans.

Policy CSM 8: Secondary and Recycled Aggregates seeks to maintain a high degree of availability for use of non-primary sources of construction aggregates. This will indirectly but significantly help the implementation of Policy CSW3 and other sustainable construction policies in the Development Plan as the materials will, as far as practical, be available for such use.

48. Does the Plan provide sufficient guidance to applicants and District Councils as to how compliance with this policy is expected to be achieved?

Policy CSM8 would not be applied by the District and Borough Councils as it sets out criteria of the capacity and locations of secondary and recycled aggregate facilities.

Policy CSW3 (mentioned in response to question 47) would be applied by the District and Borough Councils. The supporting text explains that Circular Economy Statements would be required for developments over a certain size. The Circular Economy Topic
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Paper (EB01) provides further explanation as to how circular economy principles can be taken into account in new development. Paragraph 6.2.8 also states: “Guidance on the content of Circular Economy Statements will be prepared but in the meantime, developers should refer to related guidance published by the Greater London Authority in 2022.”

49. How will the effectiveness of this policy be monitored?

The effectiveness of the policy will be monitored by the Local Aggregate Assessment process and data from the Environment Agency. The Local Aggregate Assessment (LAA) is produced yearly, this is a monitoring process that details the sales of secondary and recycled aggregates by the permitted sites. This data is supplemented by data from the Environment Agency’s Waste Data Interrogator that demonstrates the amount of waste from industrial activities and the construction, demolition and excavation sectors that arise and potentially can be used for aggregate use once treated. This helps to inform whether the Plan’s estimated 2.7mtpa capacity is being utilised and whether any review of the strategy is required.

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?

The policy is sufficiently flexible to address both uses of Kent area derived building stone, in that the use of building stone for restoration or maintenance purposes of historic building and structures as well as 'new build projects' are specifically addressed by the policy. The explanatory text however could be useful be expanded to make reference to contributing to local distinctiveness, should the Inspector find this appropriate.

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?

This is not necessary as the Plan is to be read as a whole development management Policy DM 19: Restoration, Aftercare and After-use sets out the need to ensure that any restoration plan, that is a policy requirement, has to have consideration for the key landscape and biodiversity opportunities and constraints ensuring connectivity with surrounding landscape and habitats. This requirement would naturally include an understanding of the particular and relevant landscape character of the area in question. To include this specific requirement would result in unnecessary repetition and reduce the policy's succinctness, however text referencing landscape character areas could be inserted in Policy DM19 if the Inspector felt this was necessary to address this particular question.

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??

Policy CSM10 is justified as it aligns with the need to manage hydrocarbon resources responsibly. It ensures that any hydrocarbon development proposals are subject to rigorous assessment to mitigate environmental impacts and safeguard local communities. This is consistent with the principles of sustainable development.

The policy is effective as it sets clear criteria for the assessment of hydrocarbon development proposals. It includes provisions for environmental protection, community engagement, and the use of best available techniques to minimise adverse impacts.

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The policy is consistent with paragraphs 221-223 of the National Planning Policy Framework (NPPF) by clearly distinguishing between, and planning positively for, the three phases of development (exploration, appraisal and production), whilst ensuring appropriate monitoring and site restoration is provided for.

It should be noted that the text of Policy CSM10 is the same as that in the current KMWLP 2013-30 that was originally adopted in 2016. A version of the policy was examined by an independent Inspector who considered the soundness and legality of the policy and in light of this examination, changes to the Policy were made to ensure its soundness. It is not considered that changes to the NPPF made since the Policy was found sound affect the Policy's consistency with 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?

Yes. Policy CSM 10 expressly requires that:

- Well sites and associated facilities are sited, so far as is practicable, to minimise impacts on the environment and communities (point 1);
- developments are located outside Protected Groundwater Source Areas (point 2);
- there are no unacceptable adverse impacts (in terms of quantity and quality) upon sensitive water receptors including groundwater, water bodies and wetland habitats (point 3); and,
- all other environmental and amenity impacts are mitigated to ensure that there is no unacceptable adverse impact on the local environment.

With regard to the location of hydrocarbon development involving hydraulic fracturing, the policy requires particular regard to impacts on water resources, seismicity, local air quality, landscape, noise and lighting impacts. The policy states that *'such development will not be supported within protected groundwater source protection zones or where it might adversely affect or be affected by flood risk or within Air Quality Management Areas or protected areas for the purposes of the Infrastructure Act 2015, section 50.'*

The supporting text to the policy (see para 5.10.17) notes that the Plan's development management policies, which are intended to ensure development would not result in unacceptable environmental impacts (including on groundwater), are equally applied to any proposal for hydrocarbon development.

It should be noted that the Environment Agency, which is responsible for the protection of groundwater, did not raise any concerns regarding the ability of Policy CSM10 to ensure that hydrocarbon development does not result in unacceptable adverse impacts on groundwater.

54. Should the supporting text explain what is meant by 'local environments and communities' or should this be set out in the policy?

It is assumed that the question relates to point 4 of the policy which states:

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'all other environmental and amenity impacts being mitigated to ensure that there is no unacceptable adverse impact on the local environment or communities'

The term 'local environment and communities' is intended to clarify that this part of the policy is intended to control local impacts from the development rather than global ones, in particular those relating to climate change impacts caused by the release of greenhouse gases. The use of the term 'local environment' is consistent with the NPPF (paragraph 180).

55. Policy CSM 10 refers to footnote 63. Should this information be included in the policy itself to ensure that it is effective?

Footnote 63 to Policy CSM 10 is intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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?

Paragraph 1.2.1 recognises that Plan forms part of the Development Plan which includes District and Borough Local Plans (& Neighbourhood Plans) as follows:

"The Plan is part of the statutory development plan for Kent together with the adopted Local Plans prepared by the twelve Kent district and borough planning authorities and relevant Neighbourhood Plans prepared by local communities. Proposals for waste and mineral developments will be considered against the policies contained in the development plan as a whole, not just those included in this Plan."

As such any allocations or strategies included in the Local Plans are in principle pertinent to determinations made under the Kent Minerals & Waste Plan as they form part of the overall Development Plan for Kent.

The policies in the Plan are sufficiently flexible to ensure that where local needs for particular facilities are identified then such facilities would be permitted subject to them being proposed in the locations identified as suitable in the strategic waste policies (in particular CSW6) and not being likely to result in unacceptable adverse impacts as specified in the Development Management policies of the Plan.

The Plan evidence base includes a document entitled 'Management Requirements for Local Authority Collected Waste in Kent' (EB08). This sets out predicted management requirements for Local Authority Collected Waste (LACW), which includes all household waste produced in Kent, through to 2040. Section 3 sets out how the predicted growth in housebuilding may affect arisings requiring management. Following the process set out in Planning Practice Guidance different growth profiles were generated and assessed. This found that growth profiles were actually negative ranging from minus 1.60% through to minus 1.71%. However, to ensure that the Plan did not underprovide, the forecast selected assumed a positive annual growth rate of 0.20%. This reflected the growth rate already used to generate the evidence base for the adopted version of the KMWLP.

57. What evidence is available to ensure that the waste sites relied on have sufficient capacity which will be deliverable during the Plan period?

The Kent Waste Needs Assessment 2022 Update (WNA), is comprised of a number of documents included in the examination library referenced EB04 through to EB10 (note EB07 is superseded by EB07/1). This updated the Kent Waste Needs Assessment produced in November 2018 submitted in support of the Early Partial Review of the Plan, which was found sound in 2020. Notably the examining Inspector assessed the

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WNA in detail and found it sufficiently robust to justify the strategy in the adopted Plan. Paragraph 37 of the Report on the Early Partial Review states:

"37. The strategy for provision of waste facilities in the EPR seeks to meet the area's objectively assessed needs. It is informed by agreements with other authorities and is positively prepared. The supporting text to Policy CSW7 and Policy CSW5 are not sound but would be sound if the recommended MMs are made. Otherwise, the waste policies as amended by the EPR are positively prepared, justified and otherwise sound."

Extract of Inspector's Report, KMWLP Early Partial Review, 23.04.20

The strategy for waste management included in the KMWLP 2024-39 is essentially the same as that included in the adopted Plan.

The principal purpose of the WNA 2022 is to update the amounts of each principal waste stream forecast to arise in Kent over the Plan period, to assess available capacity in Kent for the management of each of the streams, and then determine if any capacity gaps might exist that could mean the objectives of the Plan may not be met. This reflects the approach set out in the national Planning Practice Guidance for Waste.

Net self-sufficiency for LACW, Commercial and Industrial (C&I) waste and Construction, Demolition and Excavation (C,D&E) waste, and the ability of existing capacity to meet management targets have been evaluated and in all cases, sufficient capacity has been identified to meet the projected needs.

It should be noted that there is no expectation that WPAs should be net self-sufficient in capacity for the management of hazardous waste, due to the wide range of such wastes and the facilities generally needing to serve a 'larger than local' catchment to be viable.

Details of how capacity at existing waste management sites has been assessed for the principal waste streams are included in the following reports (key sections noted below):

- *Non-Hazardous Waste Recycling/Composting Capacity Requirement (EB09)* – see in particular Appendix 1: Consented 'Recycling/Composting' Capacity in Kent
- *Capacity Requirement for the Management of Residual Non-Hazardous Waste in Kent (EB04)* – see in particular Table 11: Projected 'Other Recovery' Capacity Gap for Kent Non Haz Residual Waste Arisings (tpa)
- *Construction, Demolition & Excavation Waste Management Requirements in Kent (EB05)* see in particular Appendix 1: Capacity Assessment by Type

The Plan does not propose that future waste management requirements will be met by relying on capacity at temporary or limited life facilities such as landfills. The majority of capacity provided is at facilities that have permanent planning permission, with capacity that will not reduce over time. The Plan includes Policy CSW16 (pages 118-119), which is intended to ensure capacity at existing waste management facilities in

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Kent is not lost or compromised by other development requiring planning permission. In this way the Plan secures the capacity needed over the whole plan period.

Extracts from the WNA documents are included below which conclude the following with regard to capacity requirements over the Plan period:

Non-Hazardous Waste Recycling/Composting Capacity Requirement (EB09)

Table 6: Projected Capacity Gap for Recycling/Composting in Kent (tonnes)

	Actual	Milestone Year			
	2020	2025/26	2030/31	2035/36	2040/41
Total Required Capacity <i>(from Table 7 above)</i>	990,006	1,004,691	1,135,301	1,274,576	1,422,998
Existing Capacity @ 2020	2,476,000	2,476,000	2,476,000	2,476,000	2,476,000
Capacity Gap		0 (1,471,500 surplus)	0 (1,341,000 surplus)	0 (1,201,500 surplus)	0 (1,053,000 surplus)

Table 6 shows that when the peak requirement for recycling/composting capacity is compared with the existing consented capacity value of c2,476,000 tpa no shortfall in capacity is predicted.

Capacity Requirement for the Management of Residual Non-Hazardous Waste in Kent (EB04)

Table 11: Projected 'Other Recovery' Capacity Gap for Kent Non Haz Residual Waste Arisings (tpa)

Line		Milestone Year			
		2025/26	2030/31	2035/36	2040/41
1	<i>Allington EfW capacity</i>	500,000	500,000	500,000	500,000
2	<i>Kemsley SEP capacity at 2019</i>	657,000	657,000	657,000	657,000
3	Total (Line 1+2)	1,157,000	1,157,000	1,157,000	1,157,000
4	Other Recovery Requirement (Line 2 Table 10)	791,000	749,000	688,000	630,000
5	'Other Recovery' Capacity Requirement (Line 3 minus Line 4)	0 (366,000 surplus)	0 (408,000 surplus)	0 (469,500 surplus)	0 (527,000 surplus)
6	Tonnage projected as going to landfill (Line 1 Table 10)	181,500	148,000	124,000	80,000
7	Non-haz residual waste capacity gap (Line 5 minus Line 6)	0 (184,500 surplus)	0 (260,000 surplus)	0 (345,000 surplus)	0 (447,000 surplus)

This indicates that there is no predicted shortfall in 'other recovery' capacity and the capacity surplus is sufficient to absorb the predicted non-hazardous residual waste landfill requirement. This also shows that Kent would remain net self-sufficient in non-hazardous residual waste management capacity throughout the Plan period.

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Construction, Demolition & Excavation Waste Management Requirements in Kent (EB05)

Table 26: Comparison of C, D & E waste Peak Management Requirements against 2020 Baseline Profile

Management Route	Peak Annual or Cumulative (for permanent deposit /landfill) Requirement to 2038 (tonnes) Table 25	Capacity Assessed as available	Comment
INERT COMPONENT			
Inert Recycled Aggregate	1.4M	3.9Mtpa See Table A1 in Appendix 1	KMWLP states "5.8.2 The consented secondary and recycled aggregates processing capacity within Kent currently exceeds 2.7Mtpa, 0.63 Mtpa of which is identified as temporary capacity." Para 5.8.3 includes a commitment to maintain productive capacity of at least 2.7 million tonnes per annum throughout the Plan period via Policy CSM 8. No additional capacity required.
Permanent Deposit to Land (Inert CDEW)	11.8 million t = 7.86Mm ³ at 1.5t/m ³	Table A4 in Appendix 1 indicates inert void of just over 5.7M tonnes but does not include operations permitted as recovery to land	KMWLP states " 6.11.2 The Needs Assessment shows that Kent has existing permitted inert waste landfill capacity that is more than sufficient to meet Kent's need for the plan period. " However, this refreshed review suggests that void may not be as plentiful as previously assessed. Moreover, the current assessment of available void is highly dependent on minerals being worked at the rate required to create the void needed. Additional capacity may be required.
NON-INERT COMPONENT			
Separated for recycling	352,554	>2.4Mtpa See Table A2 in Appendix 1	No additional capacity required.
Non-Inert (EfW)	125,912	44ktpa (surplus)	MVV Biomass Plant at Ridham has capacity c 170,000 tpa. So, it suggests a capacity surplus of c44ktpa. No additional capacity required.
Non-Inert Landfill	150,581t - 150,581m ³ as 1:1 assumed with trommel fines	Table A4 indicates 1.6Mm ³ of non-haz void	Given the surplus of EfW capacity in Kent, the remaining landfill capacity of c1.6Mm ³ at Shelford Landfill is not required to meet a predicted need for the future management of LACW & C&I waste. Therefore, non-inert residues from C, D & E waste may be accommodated. No additional capacity required.

The above show that other than in the case of the permanent deposit of inert waste on land, a significant capacity buffer exists to manage each of the principal waste streams. This means that even if some capacity were to be lost to closure or redevelopment, other than such keystone facilities as the two energy from waste

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plants at Allington and Kemsley, there would likely continue to be sufficient capacity to meet the equivalent needs for the management of the principal wastes forecast to arise in Kent over the Plan period.

Since the Plan was originally adopted in 2016, no existing waste management capacity has been lost to redevelopment.

58. How would the proposed redevelopment at the Otterpool Quarry Site impact on waste management capacity in Kent over the Plan period?

Appendix 1: Consented 'Recycling/Composting' Capacity in Kent of the report *Non-Hazardous Waste Recycling/Composting Capacity Requirement (EB09)* identifies Otterpool Quarry Anaerobic Digestion (AD) facility as providing 20,000 tonnes per annum (tpa) capacity for the 'recycling/composting' of non-inert household and commercial/industrial waste. The total capacity for non-inert waste recycling/composting in Kent is calculated as approximately 2.5 million tpa (Appendix 1 EB09) – this is c1 million tpa in excess of the calculated need for this type of capacity over the Plan period (Table 6 EB09).

As the facility has an implemented planning permission, and it is understood that the development is to be further built out later this year, then there will be no loss of waste management capacity.

59. Does the Plan provide sufficient scope, flexibility and opportunity to deliver new waste management capacity should the need arise?

Yes. In particular:

- Policy CSW 2 provides general support for the provision of new waste management capacity that would ensure waste is managed at the highest level of the Waste Hierarchy practicable (unless it is shown by lifecycle assessment that management of a particular waste type at a lower level of the hierarchy would have greater environmental benefits overall).
- Policy CSW 6 provides general support for the provision of additional built waste management capacity subject to it being situated in a range of appropriate locations.
- Policy CSW 7 is supportive of the provision of additional capacity for the management of non-hazardous waste providing the criteria stated are met.

The Policies have been effective in delivering and providing significant new waste management capacity where the need has arisen since the Plan's adoption in 2016. This demonstrates that the current Plan is not unduly restrictive, and as the proposed changes to the policies mentioned above would not make the Plan any less flexible it is reasonable to conclude that the Plan provides sufficient scope, flexibility and opportunity to deliver new waste management capacity.

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?

Yes. The Plan allows, and plans for, the management of waste produced in areas outside of Kent. This approach is set out/confirmed in:

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- the Vision (point 1 specifically refers to "*the Kent area and beyond*");
- Strategic Objective 12 relating to net self-sufficiency; and,
- Policy CSW 4 which sets out the strategy for provision of Waste Management Capacity and commits to ensuring "*...sufficient waste management capacity to manage at least the equivalent of the waste arising in Kent plus an amount of residual non-hazardous waste from London*" is provided over the Plan period.

The objective of net self-sufficiency committed to in Policy CSW 4 is set out in paragraph 6.3.1 as follows:

“Kent currently achieves net self-sufficiency in waste management capacity for all waste streams. I.e. the annual capacity of the waste management facilities (excluding transfer) in Kent is sufficient to manage the equivalent quantity of waste to that predicted to arise in Kent. The continued achievement of net self-sufficiency and the management of waste close to its source are key Strategic Objectives of the Kent MWLP, because it shows that Kent is not placing any unnecessary burden on other WPAs to manage its waste. Net self-sufficiency recognises that existing (and future) waste management capacity within Kent may not necessarily be for the exclusive management of Kent’s waste. Moreover, proposals that would result in more waste being managed in Kent than is produced may be acceptable if they resulted in waste moving up the hierarchy.”

This makes it clear that waste produced outside of Kent may be provided for at waste management facilities within Kent, particularly if the management waste takes place at higher levels of the waste hierarchy.

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?

The primary purpose of Section 106 payments is to mitigate the impacts of new developments, such as housing, on the local community and infrastructure. With regard to waste management, impacts of new housing would be:

- The need to for the relevant District Council to collect waste from the houses which form part of the new development; and,
- the ability of existing waste management facilities used to manage household waste (e.g. household waste recycling centres, transfer stations and material recycling facilities) to cope with the additional waste that would be collected from the new houses

Paragraph 6.3.4 expressly notes that with increasing household waste, existing facilities used to manage local authority collect waste (which includes household waste) may require ‘upgrade, expansion or replacement’. In addition, paragraph 6.3.5 explains how specific requirements relating to the management of waste arising in the Ebbsfleet Development Corporation area and Folkestone and Hythe district will require new waste transfer facilities. This paragraph also notes the possibility that additional facilities will be required over the plan period and paragraph 6.6.1 notes that ‘*During the lifetime of the Plan, the need for HWRCs and other household waste management infrastructure will be reviewed by the WDA*’ (Waste Disposal Authority).

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In light of the express recognition of the potential need for new waste management facilities to manage household waste it is considered that the Plan provides adequate, and effective, support to the District Councils, and the County Council (as Waste Disposal Authority) to secure financial contributions associated with the provision of this infrastructure.

Policy DM 17 expressly recognises the circumstances when planning obligations may be sought, however this does not mention those relating to the management of waste and a modification is therefore proposed to this policy to help confirm the Council's the position.

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?

The Strategy for Hazardous Waste Management in England (2010) remains the most current statement of Government policy on hazardous waste specifically. This states at para 7: "*The principal aim of the Strategy is to set out the Government's vision for improved hazardous waste treatment.*" (page 5)

The Strategy promotes management of hazardous waste in accordance with the waste hierarchy and includes a principle of reducing reliance on landfill (page 13). which states that "*The planning system already has a role in restricting the availability of landfill.*"

The Strategy also includes a principle committing to end reliance on the use of Landfill Directive waste acceptance criteria derogations. This means that the practice of relying on less stringent Landfill Directive waste acceptance criteria to enable some hazardous waste to continue to be landfilled must end. The Strategy explicitly states at para 49 that: "*Continued use of the derogations is a disincentive to alternative treatment being put in place and continues to encourage the landfilling of hazardous waste, which is contrary to proper application of the waste hierarchy.*"

The derogations in place at that time covered the following types of wastes: Bottom ashes, fly ashes, slags, sludges, treated residues from APC conditioning and some filter cakes. It is understood that the disposal of Air Pollution Control residues (APCr) to Norwood Landfill still relies upon the relaxation of the waste acceptance criteria, some 14 years after adoption of the 2010 Strategy.

With regard to the management of APCr in particular, the 2010 Strategy identifies the need for treatment capacity that can recycle APCr as follows:

"A number of different treatment options exist for APC residues. Treatments that are able to make use of the resources in the waste through recycling and recovery are higher up the hierarchy than waste disposal operations. There is a need therefore for at least five facilities that can recycle APC residues to other materials that can be re-used, each with a capacity of 33,000 tonnes per annum, and a significant number of additional facilities may be needed if further EfW plant are developed.

The Waste Management Plan for England 2021 affirmed the Government's commitment to the 2010 Strategy's principles, stating it "...sets out important principles

that aim to encourage reductions in hazardous waste arisings and the wider application of the waste hierarchy to the management of hazardous waste." (BD05 page 23).

Implementation of the 2010 Strategy is supported by guidance on applying the waste hierarchy to hazardous waste published by Defra in November 2011. Notably the guidance includes the following preface statement:

"This guidance was produced under regulation 15(1) of the Waste (England and Wales) Regulations 2011 and any person subject to the regulation 12 duty must have regard to it (regulation 15(2))."

The Regulation 12 duty referred to relates to compliance with the waste hierarchy and is reproduced below:

Duty in relation to the waste hierarchy

12.—(1) An establishment or undertaking which imports, produces, collects, transports, recovers or disposes of waste, or which as a dealer or broker has control of waste must, on the transfer of waste, take all such measures available to it as are reasonable in the circumstances to apply the following waste hierarchy as a priority order—

- (a) prevention;*
- (b) preparing for re-use;*
- (c) recycling;*
- (d) other recovery (for example energy recovery);*
- (e) disposal.*

(2) But an establishment or undertaking may depart from the priority order in paragraph (1) so as to achieve the best overall environmental outcome where this is justified by life-cycle thinking on the overall impacts of the generation and management of the waste.

(3) When considering the overall impacts mentioned in paragraph (2), the following considerations must be taken into account—

- (a) the general environmental protection principles of precaution and sustainability;*
- (b) technical feasibility and economic viability;*
- (c) protection of resources;*
- (d) the overall environmental, human health, economic and social impacts.*

The Guidance presents worked examples for certain hazardous wastes and includes Gas treatment residues (for example air pollution control residues, APCR) in Appendix B (page 25). This sets out the process to be followed to demonstrate the waste hierarchy has been applied. The worked example concludes:

"There are options that lead to 'other recovery'. Therefore consider whether the gas treatment residues can be treated to produce a material that can then be used in an 'other recovery' operation as a replacement for a raw material.

Where the contamination of the waste justifies not treating the waste for 'other recovery' purposes, disposal and landfill can be considered. Where the waste meets the requirement for disposal in a salt mine the waste may go directly to that landfill

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site. For other landfills the waste is likely to require some form of treatment to fulfil the hazardous waste landfill WAC. In this case, where possible, the operator of the treatment process should consider making use of the stabilisation/solidification and neutralisation capacity of the material, which has the potential to replace raw binder materials used in treatment such as cement (in for example stabilisation treatment) or sodium hydroxide or lime (in for example neutralisation / precipitation treatment)."
(page 30)

There is no evidence that the contamination levels of the target waste concerned are such that not treating the waste for 'other recovery' purposes is justified (whereby consideration of disposal and landfill would be appropriate).

The Government's Resources and Waste Strategy 2018 included a commitment to consult on further ways to encourage hazardous waste producers to implement the waste hierarchy, but that guidance is still awaited.

The thrust of the National Strategy is reinforced in the '*National Policy Statement for Hazardous Waste: A framework document for planning decisions on nationally significant hazardous waste infrastructure (June 2013)*'.

The Kent Plan's approach to dealing with hazardous waste is set out in Policy CSW 12 which cross refers to the other policies in the Plan, which will apply together in the event of an application for hazardous waste management capacity coming forward. The fact that at least two facilities have been consented since 2020 shows the approach is sufficiently permissive to support development of additional capacity in appropriate locations and of the appropriate type. While it is proposed to disengage application of the policy with the achievement of net self-sufficiency for this waste stream in Kent, the policy thrust remains the same.

Hence the Plan's proposed approach to the future management of hazardous waste in general and APCr in particular is consistent with national policy and directly supports implementation of the principles set out in the 2010 Strategy.

The evidence demonstrates that there is sufficient capacity for hazardous waste over the Plan period as follows:

The Kent Waste Needs Assessment 2022 Update includes an assessment of *Kent Hazardous Waste Management Requirements to 2039 (BPP Consulting May 2023) (EB07/1)* (please note this supersedes EB07 which was originally submitted in error). Section 4 includes an assessment of existing hazardous waste management capacity in Kent. The capacity assessment is based on inputs to sites managing hazardous waste which benefit from an Environmental Permit in 2020 as reported in the Environment Agency's Waste Data Interrogator 2020. The assessment concludes on the availability of hazardous waste management capacity in Kent as follows:

"Table 5 shows that permitted waste management facilities in Kent managed a total of c168,000 tonnes of hazardous waste in 2020. This presents a reasonably close match with the arisings value." (emphasis added)

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The above statement indicates that there is sufficient capacity to manage a quantity of hazardous waste equivalent to that forecast to arise in Kent over the Plan period even though the Plan does not apply the net self sufficiency principle to the management of this waste stream. Moreover, the assessment notes that, as only the input values reported in 2020 were considered in establishing consented capacity it is possible that an underestimate in overall capacity was derived as, it is possible that not all sites were operating at peak capacity in that single year and some may not have been operational at all.

Since this assessment was completed, further capacity has been consented, including 25,000 tpa reported in footnote 5 on page 12 of the report. Furthermore, as referenced on Page 15 of the report, consent was granted in 2020 for an APCr processing facility at Hermitage Quarry near Maidstone which allows up to 30,000tpa of APCr to be accepted in the manufacture of aggregate and this capacity should also now be included. This facility commenced operation in 2021. Hence available capacity in Kent's built facilities has increased by a further 55,000 tpa, which more than exceeds forecast arisings. This excludes capacity provided by limited life landfills.

It should be noted that the inclusion of Norwood Quarry as a strategic allocation in the 2016 version of the Kent Minerals & Waste Local Plan for the management of APCr was due to a specific need to identify sufficient capacity for the APCr arising from the Allington Energy from Waste (EfW) facility. At the time this was a strategic issue being necessary for successful operation of the Kent County Council Waste Disposal Authority contract for the long-term management of residual waste (The Allington EfW plant was originally built primarily to serve the Kent long term LACW management contract let by the County Council as Waste Disposal Authority for Kent). However, other management routes for APCr now exist and the operator of Norwood Quarry (FCC) has acknowledged (in its representation) that the facility is no longer intended to primarily serve the Allington EfW plant, instead operating as a merchant facility and so the strategic justification of the allocation no longer exists.

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?

Policy CSW 2 supports the provision of additional waste management capacity that would ensure waste is managed at the highest level of the waste hierarchy practicable unless lifecycle thinking demonstrates otherwise. It does this by requiring proposals for facilities intended to manage by 'other recovery' or disposal to demonstrate that the waste couldn't practicably be managed through means further up the waste hierarchy. This would be through submission of a Waste Hierarchy Statement. The Council proposes a modification to Policy CSW 2 to clarify the application of the requirement for a Waste Hierarchy Statement to all types of facility proposing to manage residual waste (as per Para 6.9.4).

The proximity principle is derived from National Planning Policy for Waste and has more limited applicability as it only relates to the recovery or disposal of mixed municipal waste arising from private households. Such waste includes black bag waste collected from households. Given the capacity at existing 'recovery' facilities in Kent has been assessed to be more than sufficient to meet identified future needs for August 2024

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both recycling/composting and 'other recovery' of waste produced in Kent, it is considered that the proximity principle has been provided for, noting that it only relates to the use of one of the nearest appropriate installations i.e. is not prescriptive to Kent household waste being managed in Kent if a facility in another Plan area is closer. That is to say there is no absolute requirement to comply with the proximity principle and this is recognised in the text at paragraph 6.5.1 which reads:

“The preference identified in response to earlier consultations during the formulation of the Plan was for a mix of new small and large sites for waste management. This mix gives flexibility and assists in balancing the benefits of proximity to waste arisings while enabling developers of large facilities to exploit economies of scale. National policy recognises that new facilities will need to serve catchment areas large enough to secure economic viability and this is particularly relevant when considering the possible sizing and location of facilities required to satisfy any emerging need indicated by monitoring e.g. in the relevant AMR”.

The policy that seeks to generally apply the proximity principle by limiting the distance that waste is transported is Policy DM 13: Transportation of Minerals and Waste which is intended to minimise road miles and promote the use of sustainable transportation methods including rail and water.

64. Should the policy or its supporting text explain what is meant by 'practicable'?

As set out in response to question 62, compliance with the Waste Hierarchy in priority order i.e. from the top down, is a requirement of *The Waste (England and Wales) Regulations 2011* and its application is only constrained by the life-cycle thinking caveat under these Regulations. The life cycle thinking caveat provides justification for the management of certain waste by means that may be classed as lower down the hierarchy if the overall environmental benefits are at least as great as other methods higher up. An example of this is the management of food waste at anaerobic digestion plants classed as 'other recovery' which is preferred to its management at in vessel composting facilities classed under the recycling/composting tier.

There is a need to qualify the application of the Waste Hierarchy in practice in order to prevent the policy acting as a complete inhibitor of provision of any additional waste management capacity as it could be argued that in theory, all waste could be prevented. Given waste requiring management through means lower down the waste hierarchy is expected to be produced at least until 2050 (see note below), facilities will be required to ensure it is managed safely and in accordance with best practice.

The inclusion of the qualifying term 'practicable' is intended to recognise that a degree of realism needs to be applied when assessing compliance with the hierarchy. The term is generally understood as covering a range of factors from technically practical factors to economic. These are largely reflected in the factors identified in the Regulations cited above in response to question 62, in particular (3) a-d reproduced below:

- (a) the general environmental protection principles of precaution and sustainability;*
- (b) technical feasibility and economic viability;*

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(c) *protection of resources;*

(d) *the overall environmental, human health, economic and social impacts.*

N.B. In the *Resources and Waste Strategy for England 2018*, the Government committed to eliminating all avoidable waste by 2050. *The Clean Growth Strategy* published by the UK Government in October 2017 (as amended in April 2018) defines the aim of zero avoidable waste as eliminating all waste where it is “technologically, environmentally and economically practicable (TEEP) to do so, [while] working to support innovation in new materials, products and processes that extend the range of materials covered by this categorisation”.

<https://assets.publishing.service.gov.uk/media/5ad5f11ded915d32a3a70c03/clean-growth-strategy-correction-april-2018.pdf>

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?

Footnote 71 to Policy CSW 3 is intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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?

Policy CSW4 relates to provision for the management of the waste identified in the WNA 2020. It is noted that the Stodmarsh catchment has been designated as phosphorus and nitrogen sensitive under section 96C of the Water Industry Act. While management of the waste that may arise from nutrient neutrality schemes is important to the maintenance of such schemes, it is not considered as a separate strategic waste stream due to its non-specialist nature, insignificant quantities and intermittent frequency of production. Therefore, express provision of additional management capacity to manage this specific stream is not considered necessary at this point. Policies relating to the provision of additional capacity would equally apply and allow for the development of additional capacity if this was shown to be necessary.

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?

Footnotes 72, 73 and 74 to Policy CSW 4 are intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the

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approach taken by the County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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)?

The term 'unacceptable' should be added in clauses 'a' and 'b' but the term 'significant' should be deleted to avoid confusion which would arise from the apparent need to determine the significance of unacceptability if the term were not deleted. This change would make the policy consistent with other policies in the plan which reference the need to prevent 'unacceptable adverse impacts'.

Clause 'c' of the policy should be amended to include reference to the Strategic Road Network. Such an addition negates the need to reference Kent's Arterial Routes which is proposed to be deleted.

69. Policy CSW 6 refers to footnote 76. Should this information be included in the policy itself to ensure that it is effective?

Footnote 76 to Policy CSW 6 is intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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?

Yes, it is proposed to add "Kent County" to clauses 'e' and 'f'.

71. Policy CSW 8 refers to footnote 81. Should this information be included in the policy itself to ensure that it is effective?

Footnote 81 to Policy CSW 8 is intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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?

Policy CSW9 is considered sufficiently clear and consistent with national policy as set out below:

The requirement to demonstrate that the waste stream cannot be managed according to Policy CSW 2 and that no alternative suitable capacity exists is clear. It aligns with national policy that prioritises waste reduction, reuse, and recycling over landfill. The supporting text to the policy notes that a waste hierarchy statement would be needed to demonstrate consistency with this requirement.

Point 2 is consistent with national planning policy (in particular Chapter 15 of the NPPF) which expects development to protect and enhance the environment. Specific expectations with regard to the protection and enhancement of the environment are set out in the Plan's development management policies

The requirement for restoration to a high-quality standard and appropriate after-use is clear and aligns with national planning policies on land restoration and landscape character. The specific reference to Policy DM 19 provides additional context and guidance.

The requirement to capture and utilise at least 85% of landfill gas using best practice techniques is specific and clear. It aligns with national policies on reducing greenhouse gas emissions and promoting sustainable waste management practices.

73. Policy CSW 9 refers to footnote 82. Should this information be included in the policy itself to ensure that it is effective?

Footnote 82 to Policy CSW 9 is intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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?

Yes. Policy CSW12 signposts other relevant policies in the Plan that govern suitability of locations and makes specific allowance for the management of hazardous waste in Kent that is produced outside of Kent.

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The policy is consistent with national policy. The approach set out to provide for waste beyond the boundary of Kent is consistent with National Policy for hazardous waste management capacity provision as set out in The Strategy for Hazardous Waste Management in England (2010) as follows:

"28. In terms of inter-regional movements of hazardous waste, the Waste Strategy for England 2007 acknowledged that the regional distribution of hazardous waste facilities could more closely match regional arisings, to reduce the number and length of these movements of hazardous waste. The aim is not to move to complete regional self-sufficiency for hazardous waste management, which is not required by the WFD and is unrealistic, not least because some hazardous waste facilities provide a national need."

N.B. WFD = Waste Framework Directive

The supporting text contextualises the Policy and provides clarity regarding the Policy's requirements.

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?

No because the term 'Sustainable Remediation' is not used in the policy itself and so it is not considered that inclusion of it in the supporting text would aid the policy's effectiveness.

Policy CSW 14: Disposal of Dredgings

76. Is this policy sufficiently clear and consistent with national policy?

Yes, it is considered the policy intention is clear. There is no specific national planning policy on the management of this waste stream, although there is policy on how this waste is subject to the environmental permitting regime.

<https://www.gov.uk/guidance/depositing-dredged-waste-on-land>

77. To ensure clarity does the supporting text to this policy require updating, in particular in relation to 'The Thames Vision'?

Yes, the text should be updated.

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?

Paragraph 20 of the NPPF requires that strategic policies should make sufficient provision for various infrastructure needs, including waste management and wastewater treatment. This means that Local Plans must ensure that there is adequate

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infrastructure to support new developments, including facilities for the treatment of wastewater. Policy CSW15 is a strategic policy and is wholly consistent with this requirement in its support for the development of wastewater treatment works (and associated sewage sludge treatment) in Kent. The policy is clear that it relates to proposals for both new and extended facilities and that these will be permitted where a 'proven need' for the development has been identified.

79. Policy CSW 15 refers to footnote 83. Should this information be included in the policy itself to ensure that it is effective?

Footnote 83 to Policy CSW 15 is intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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?

As set out in the supporting text to Policy CSW16, this policy is intended to be read in conjunction with Policy DM 8 which sets out the conditions under which safeguarded waste management infrastructure may be released for non-waste development. This means that any proposal for redevelopment would either need to identify alternative equivalent capacity, which would mean that ultimately the capacity provided by this facility would be re-provided elsewhere, unless the requirements of Policy DM 8 point 6 or 7 can be demonstrated to be met. That is that the either material considerations indicate the need for the development overrides the presumption for safeguarding or it has been demonstrated that the capacity of the facility to be lost is not required.

With regard to the safeguarding of existing waste management facilities, National Planning Policy for Waste states that when determining planning applications for non-waste development, local planning authorities should ensure that *"the likely impact of proposed, non-waste related development on existing waste management facilities, and on sites and areas allocated for waste management, is acceptable and does not prejudice the implementation of the waste hierarchy and/or the efficient operation of such facilities;"*

81. Policy CSW 16 refers to footnote 85. Should this information be included in the policy itself to ensure that it is effective?

Footnote 85 to Policy CSW 16 is intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the County Council in its previously adopted local plans. Our experience to date, has not

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found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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?

No. It is made clear in paragraph 1.2.1 of the Plan that proposals for waste management will be determined by the Council taking all the relevant policies of the Development Plan which includes the KMWLP. The supporting text recognises the sensitivity of the environment around Dungeness and in particular its location adjacent to designated habitats, it therefore follows that Policies DM2 and DM3 will apply in the event that a proposal comes forward.

The addition of such further explanatory text would not assist with the intention of producing a Plan that is concise. If this text were to be inserted in relation to this type of development then it could be argued that it should also be inserted in relation to all other forms of development covered by the strategic policies of the Plan.

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)?

Yes, it is considered that reference to this document in the supporting text would aid clarity. It is understood that this document is currently being updated and so it will be important to ensure that the most recent version is referenced in the supporting text.

84. Policy CSW 17 refers to footnote 96. Should this information be included in the policy itself to ensure that it is effective?

Footnote 96 to Policy CSW 17 is intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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?

The policies in the plan as a whole seek to achieve well designed and beautiful places as required by chapter 12 of the National Planning Policy Framework (NPPF). Policy DM1 in particular sets out a number of principles to achieve sustainable design which will support the delivery of good design. The policy sets out design expectations, so that applicants have as much certainty as possible about what is likely to be acceptable as required by the NPPF. Policy DM 1 sets out the requirements for minerals and waste development proposals to demonstrate that they have been designed in accordance with best practice

Furthermore, specific parts of national policy is addressed in a number of policies within the Plan. For example, Policy DM 2 seeks to ensure appropriate locations for minerals and waste developments are considered which do not have an unacceptable adverse impact on internationally, nationally and locally designated sites, that development is sensitively located and designed to avoid or minimise adverse impacts on the designated areas and that appropriate mitigation is provided. Policy DM 4 aims to preserve the openness of the Green Belt and policies DM 5 and DM 6 aim to protect and enhance heritage assets. Policy DM 11 seeks to limit unacceptable adverse impacts on the health and wellbeing of local communities and the environment, policy DM12 considers the cumulative impact of mineral and waste management development and policy DM 19 seeks to ensure that mineral extraction sites and temporary waste management development will be restored to the highest possible standard. The Plan, when read as a whole, is therefore considered sufficiently clear and consistent with national policy in respect of achieving well-designed and beautiful places.

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?

Policy DM2 aims to ensure that there are no unacceptable adverse impacts on sites of international, national, and local environmental and landscape importance and sets out the circumstances where impacts upon them would be acceptable. In respect of conserving and enhancing the natural environment as required by chapter 15 of the National Planning Policy Framework (NPPF), the County Council considers that this is captured by reading the Plan as a whole.

The County Council has engaged with Natural England constructively, actively and on an ongoing basis throughout the preparation of the Plan and a Statement of Common Ground was agreed between the County Council and Natural England (dated April August 2024

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2024) (SD12). In order to improve clarity of the Plan, the Statement agreed a number of suggested changes to the text of Policies DM2 (and DM3) which the Council propose be offered as modifications to the Plan.

The Statement of Common Ground has been submitted to the Inspector and outlines in detail the ongoing engagement with Natural England, Natural England's responses to the Regulation 18 and Regulation 19 consultations. It outlines areas of common ground, including the agreement that the plan is sound.

The Plan, when read as a whole, is therefore considered sufficiently clear and consistent with national policy in respect of conserving and enhancing the natural environment.

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?

Footnotes 101, 102 and 103 to Policy DM 2 are intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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?

Yes, Policy DM 3 is sufficiently clear and consistent with national policy in respect of conserving and enhancing the natural environment as required by chapter 15 of the National Planning Policy Framework (NPPF). The Policy sets out that proposals for minerals and waste developments will be required to ensure that they result in no unacceptable adverse impacts on Kent's important biodiversity assets. This includes international, national and local sites, along with protected species and habitats and seeks the conservation, protection and enhancement of habitats and species.

Furthermore, where there are proposals that are likely to have unacceptable adverse impacts upon important geodiversity and biodiversity assets, they will need to demonstrate that an adequate level of ecological assessment has been undertaken and should provide a positive contribution to the protection, enhancement, creation and management of biodiversity. The Policy details that such proposals will only be granted planning permission where they have an ecological assessment of the site, consideration of the need for and benefits of the development and reasons for the proposed location, identification and securing of measures to mitigate any adverse impacts, and the identification and securing of compensatory measures where adverse impacts cannot be avoided or mitigated. This is considered consistent with national policy, in particular chapter 15 of the NPPF.

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In addition to this, the Policy sets out that all major minerals and waste development shall deliver at least a 10% net gain in biodiversity value with an expectation that the maximum practicable net gain is achieved. The Policy therefore supports the requirement for a 10% biodiversity net gain as required by national policy and is therefore considered sufficiently clear and consistent with national policy.

89. How does this policy consider the BNG target of the Kent Nature Partnership? What are the timescales for adopting supporting BNG guidance?

The Kent Nature Partnership (KNP) target (20%) was predicated on evidence related to housing development and so is not directly applicable to waste and minerals. The Plan's approach of seeking maximum practicable biodiversity net gain may mean that in certain circumstances, particularly mineral site restoration, the KNP target will be met or exceeded.

Work on the BNG guidance would commence as soon as the KMWLP is adopted. It is anticipated that this will use much of the information already published in the Biodiversity Topic Paper (EB02).

90. Policy DM 3 refers to footnote 104. Should this information be included in the policy itself to ensure that it is effective?

Footnote 104 to Policy DM 3 is intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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 4 remains unchanged from the Kent Minerals and Waste Local Plan 2013-30 that was previously considered sound and legally compliant following independent examination and was subsequently adopted in July 2016. The Policy was previously amended in light of discussions with the Inspector at the Examination, particularly in light of the complexity of Green Belt considerations in relation to minerals development. The Policy is worded in such a way that ensures any proposal would be assessed on their merits as they come forward in accordance with national policy. The Policy as drafted specifically sets out that minerals and waste developments in the Green Belt will be considered in light of their potential impact(s) and shall comply with national policy and the National Planning Policy Framework (NPPF). While brief, the policy has the benefit of being consistent with national policy and does not add any unnecessary, unhelpful or conflicting criteria.

Furthermore, the supporting text of Policy DM 4 broadly explains the national policy and includes the Council's intention to plan positively to enhance the Green Belt. As
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drafted, the Policy respects the fact that there may be a variation in Green Belt policy at a national level, and therefore ensures consistency with national policy is maintained throughout the plan period.

Policy DM 5: Heritage Assets

92. How would this policy meet bullet point 4 of the Spatial Vision?

Bullet point 4 of the Spatial Vision for Minerals and Waste in Kent sets out that throughout the Plan period, minerals and waste development will 'embrace the naturally and historically rich and sensitive environment of the plan area and ensure that it is conserved and enhanced for future generations to enjoy'. Policy DM 5 supports this spatial vision firstly by identifying the range of protected heritage assets to be conserved and secondly setting out that any minerals and waste proposals that would adversely harm the significance of a heritage asset will not be granted planning permission, unless it can be demonstrated that there is an overriding need for the development and that any impacts can be mitigated & compensated for, such that there is a net planning benefit. This is in accordance with national policy for the historic environment and ensures that the historically rich and sensitive environment is conserved and enhanced as required by the spatial vision of the Plan.

93. Policy DM 5 refers to footnote 107. Should this information be included in the policy itself to ensure that it is effective?

Footnote 107 to Policy DM 5 is intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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?

Yes, the policy is required to be read in conjunction with the Plan's Mineral Safeguarding Area (MSA) policy maps in Chapter 9. These set out the known locations of the area's economic geologies, the data being given by the British Geological Survey (BGS) under license for plan making purposes. This includes mineral resources of local and national importance. The MSAs do not show what is considered to be viable deposits of land-won minerals, as this is not known with any certainty until individual sites are assessed for mineral extraction viability.

Therefore, application of the policy's exemption criteria to the presumption to safeguard the land-won mineral deposits that are known to be potentially economically important is based on objective data on where they occur. This ensures that the policy safeguards local and potentially nationally important minerals in

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accordance with the NPPF's requirement to secure their long-term conservation (Part 17 of the NPPF 2023).

95. Would this policy be effective at safeguarding mineral resources?

Yes, this policy is as drafted in the adopted KMWLP. It has been effective at safeguarding mineral resources and ensuring that mineral safeguarding matters are considered as part of the determination of planning applications and for emerging local plan allocations for non-mineral development being considered by the Kent district and borough councils. The presumption to safeguard is set out in Policy CSM 5: Land-won Mineral Safeguarding.

This policy sets out the Plan's approach to safeguarding these deposits. They are identified on the MSA proposal maps in Chapter 9 of the Plan. Any land-won mineral identified in the MSA is safeguarded from development that may cause their sterilisation. Guidance on the approach to safeguarding is included in the Council's Supplementary Planning Document 2021.

Policy DM 7: Safeguarding Mineral Resources then sets out the potentially justifiable grounds for exempting a development proposal for non-mineral development or an allocation in an emerging local plan, from the Policy CSM 5 presumption to safeguard. Policy DM 7's application ensures that viable deposits of land-won minerals are not lost to sterilising development unless an exemption criterion is met.

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?

This is not considered necessary or appropriate. The identification of exemptions is essentially a monitoring activity, that the County Council is responsible for. As such the correct place for any record of exempt allocations in emerging local plans is within the Authority Monitoring Reports (AMR), which currently lists agreed exemptions. To detail the currently assessed and exempted sites from the safeguarding requirement in the policy in the KMWLP, would render it out of date after a relatively short period of time. As other local plans came forward and potentially additional allocations that are exempt from the presumption to safeguard are agreed, the policy would be ineffective as it would be out of date. The corrective action would have to be a targeted partial review of this policy on a rolling basis. This would be inefficient and unnecessary as the relevant information on allocation exemptions can be captured annually in the AMR process. The AMR which is produced annually, is published on the County Council's website and includes an appendix listing details of exempt development.

97. Policy DM 7 refers to footnote 110. Should this information be included in the policy itself to ensure that it is effective?

Footnote 110 to Policy DM 7 is intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the

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County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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?

The location of the safeguarded wharves and rail depots are set out in Chapter 9 of the Plan; all permitted waste and mineral facilities that exist in the County Council's area are listed as a part of the Authority's monitoring activities and can be seen on its web page Monitoring and Assessment. See 'Minerals and wastes sites'. Though this is intended to be an 'active' list that can be updated as and when required outside the AMR process.

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?

This is essentially a monitoring activity, that the County Council is responsible for. As such the correct place for any record of exempt allocations in emerging local plans is within the Authority Monitoring Reports (AMR). To detail the currently assessed and exempted from minerals and waste facility safeguarding local plan allocations in the policy would render it out of date after a relatively short period of time.

As other local plans come forward, and potentially additional allocations would receive exemption from the presumption to safeguard, making the policy ineffective as it would be out of date. The corrective action would have to be a targeted partial review of this policy on a rolling basis. This would be inefficient and unnecessary as the relevant information on allocation exemptions is currently captured annually in the AMR process.

100. Would this policy be effective at safeguarding mineral and waste transportation and facilities?

Yes, this policy is as drafted in the adopted KMWLP and has been effective at safeguarding mineral and waste transportation facilities and ensuring that safeguarding matters are considered as part of the determination of planning applications for non-mineral development and for emerging local plan allocations for non-mineral development being considered by the Kent district and borough councils. The policy is intended to ensure that any development proposals or allocations (that would inevitably lead to a direct loss of the safeguarded facility or facilities) in emerging local plans that affect permitted and thus safeguarded facilities, are fully assessed; to ensure any losses of facilities are either justified or can be justified when not able to be replaced.

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Moreover, the policy seeks to ensure that allocations and development proposals within 250m are also assessed for compatibility with the lawful operation of the safeguard facilities.

This ensures that the safeguarded facility is not compromised by other potential legal actions, such as statutory nuisance, promoted by occupiers of the new neighbouring land uses.

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?

Yes, chapter 17 of the NPPF (2023) seeks to ensure a sufficient supply of minerals to meet societal needs whilst ensuring the long-term conservation of these finite natural resources. Policy DM 9 requires that prior extraction of mineral resource, that would otherwise be sterilised by non-mineral development that has been exempt from the presumption to safeguard (by application of Policy DM 7), is achieved without causing unacceptable adverse impacts to the environment or communities. Additionally, when planning permission is granted for the prior extraction of minerals associated with non-mineral development that would otherwise cause sterilisation, conditions are to be imposed and if appropriate a legal agreement secured to ensure adequate restoration and after-use if the non-mineral development should not be implemented.

The NPPF at Part 17, paragraph 216 d) specifically requires planning policies to include provision to encourage prior extraction of minerals where practical and environmentally feasible if it has been determined that the non-mineral development is to come forward. In terms of 'practicality' and 'environmentally feasible' considerations, these matters would have been assessed required under the exemption criteria of DM 7. If it has been determined that the non-mineral development can come forward with prior extraction, these matters would have already been assessed. The policy also goes ensures that the prior extraction and restoration requirement of an exempted site are adequately addressed, thus being in accordance with the relevant part of the NPPF (2023).

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?

Yes. Policy DM10 is concerned with ensuring that minerals and waste development in Kent does not adversely impact the water environment which is taken as '*any water resource and waterbody, including aquifers, rivers, streams, lakes and ponds*'. Furthermore, the policy also expects that development would result in the improvement of the '*ecological status of all waterbodies*'.

This is consistent with Chapter 15 of the NPPF, which as far as the water environment is concerned expects new and existing development to be prevented.. '*from*

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contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;

Reference to river basin management plans which are pertinent to development in Kent is made in paragraph 1.3.5 of the KMWLP.

103. Should the policy refer to the need for a Site-Specific Flood Risk Assessment to be submitted with proposals for minerals development?

The policy expects new development not to exacerbate flood risk in areas prone to flooding and elsewhere, both now and in the future and encourages measures to reduce flood risk where possible. The need for Site-Specific Flood Risk Assessments is recognised in the supporting text at paragraph 7.8.2 – this requirement relates to both waste and minerals proposals and so it is not considered necessary to include additional reference in the policy.

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?

Strategic Objective 3 is to *'Ensure minerals and waste sites are sensitive to both their surrounding environment and communities and minimise their impact on them.'* Policy DM10 expects new development not to *'exacerbate flood risk in areas prone to flooding' 'and elsewhere, both now and in the future'* and encourages measures to *'reduce flood risk where possible'*. On this basis Policy DM10 is concerned with ensuring that minerals and waste sites are *'sensitive to both their surrounding environment and communities'* by not increase the risk of flooding in these areas.

Policy DM 12: Cumulative Impact

105. 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?

Yes. The policy is clear that it is concerned with avoiding unacceptable adverse impacts on the environment. The expectation and requirements that proposals will enhance and improve the environment are set out in the Plan's Vision, Strategic Objectives 9 and 15, and other policies of the Plan, namely CSW14, DM1, DM2, DM3, DM10, DM17 and DM19.

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'*?

Yes. The policy expects proposals to demonstrate that *'access arrangements are safe'* and traffic impacts are more generally *'not detrimental to road safety'* which

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encompasses consideration of the quantum of traffic accessing a site as well as the adequacy of the access in term of ensuring that this does not create issues related to safety. Point 2 of the policy expressly references *'traffic flows'* and requires that proposals would not result in traffic that would *'have an unacceptable impact in the environment or local community'*.

Paragraphs 7.11.1, 7.11.2 and 7.11.3 supporting the policy explain how vehicle emissions can be detrimental to the environment and point 3 of the policy is concerned with controlling and reducing such emissions. Paragraph 7.11.4 expressly states that the purpose of the policy is to *'minimise road miles and harmful emissions'*.

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

The policy seeks to promote the most sustainable modes of transport by encouraging the use of alternative transport methods such as rail and water.

Sustainable transport is also encouraged elsewhere in the Plan as follows:

- Strategic Objective 1 encourages *'the use of sustainable, low carbon modes of transport for moving minerals and waste long distances and minimise road miles.'*
- Policy CSM6 safeguards, and Policy CSM12 promotes, sustainable transport infrastructure in the form of wharves and rail depots. Such facilities allow the bulk transport of minerals and waste by rail and water.
- Policies CSM8 and CSW4 incorporate the proximity principle, which aims to manage waste as close to its source as possible, thereby reducing transport distances and associated environmental impacts.
- Policy CSW6 encourages waste facilities to be well located to be *'well located in relation to Kent's Key Arterial Routes, and/or railheads and wharves avoiding proposals which would give rise to unacceptable adverse impacts on local roads and/or villages'*
- Policy DM17 includes *'measures to encourage use of non-road modes of transport where practicable'* in its list of matters for which planning obligation may be sought.

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?

It is considered that this is already covered by paragraph 7.11.2 that notes how *'sustainable technologies'*, such as electric vehicles, will help reduce greenhouse gas emissions.

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'*?

The supporting text of Policy DM 14 currently refers to the County Council's *'Right of Way Improvement Plan 2018-2028'* via footnote 116 which is referenced directly from

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paragraph 7.12.1. It is considered that the inclusion of this footnote ensures that where necessary development improves the Public Right of Way network in line with the County Council's 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?

This Policy (and the supporting text) is included in the adopted KMWLP 2013-30 and so has been implemented since this Plan was adopted in 2016. Inclusion of the policy has helped ensure that planning applications are submitted with the information that is required for the County Council to determine their suitability effectively and efficiently. Application of this policy has ensured that applications can be validated for determination in a timely manner.

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

Footnote 119 to Policy DM 16 is intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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?

Footnote 120 to Policy DM17 is intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

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 DM19 clearly details the requirements for restoration and aftercare of sites which are consistent with the broader goals of conserving and enhancing the natural environment set out chapter 15 of the NPPF, in particular the need for local plan policies to *'contribute to and enhance the natural and local environment*

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by...remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate’.

The supporting text and policy consider opportunities for biodiversity enhancement and note that mineral excavation sites offer particular opportunities to maximise biodiversity gain. The policy expects the highest possible standards of restoration and aftercare to be achieved and anticipates the achievement of ‘maximum biodiversity net gain’. This is also consistent with chapter 15 of the NPPF which expects policies to be included which minimise impacts on and provide net gains for biodiversity, *‘including by establishing coherent ecological networks that are more resilient to current and future pressures’.*

The policy requires sustainable afteruses that benefit the community economically, socially, or environmentally which is in line with the NPPF’s broader goals of sustainable development.

The requirement for long-term management and aftercare plans ensures that the benefits of restoration are sustained over time, which is important for maintaining biodiversity and environmental quality.

The requirement for an aftercare period of at least five years is considered appropriate for restoration proposals which do not include biodiversity gain. In accordance with the Environment Act 2021, proposals for restoration which are intended to meet statutory requirements for achieving at least 10% biodiversity net gain need to incorporate an aftercare period of at least 30 years. A modification to the Policy to reflect this is therefore required.

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?

Yes. Policy DM20 specifically expects proposals for ancillary development to demonstrate *‘environmental benefits’.....‘that outweigh the any environmental and community impacts from the proposed development.’*

While the policy does not set out how particular impacts on the natural environment would be addressed, other policies of the Development Plan, would also apply (as relevant) to ensure that proposals for ancillary development would conserve and enhance the natural environment. Policy DM1 would apply as this concerns all forms of built development (not just minerals and waste).

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

Footnote 123 to Policy DM 20 is intended to provide clarity concerning the meaning of a specific term to ensure the policy is applied as intended. It is considered that the inclusion of the footnote text within the policy would make the policy unwieldy. The inclusion of footnotes as proposed is not new and has been the approach taken by the

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County Council in its previously adopted local plans. Our experience to date, has not found this approach to have a detrimental impact on the implementation and effectiveness of the policy.

Policy DM 22: Enforcement

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

Policy DM 22 (and the supporting text) is included in the adopted KMWLP 2013-30 and so has been implemented since this Plan was adopted in 2016. Inclusion of the policy has helped ensure that the County Council has maintained the resources required to effectively undertake its planning enforcement functions.

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?

Yes. The monitoring schedule included in Chapter 8 of the Plan is largely unchanged from that included in the adopted KMWLP 2013-30. The final schedule included in the adopted KMWLP was significantly different to that included in the submitted KMWLP after it underwent rigorous scrutiny during its examination and numerous modifications were recommended. Since the Plan was adopted in 2016, the monitoring framework has been found to be both robust and practicable. Indeed, application of the framework was used to identify issues that needed to be addressed in this update to the KMWLP 2013-30.

118. Does the monitoring process for minerals and waste provide for cooperation and participation and are the appropriate participants involved?

Yes. The monitoring process for minerals and waste provides for cooperation and participation in a number of ways as follows:

- Monitoring data concerning mineral supply is obtained from the operators of mineral sites in Kent. In particular data relating to aggregates is published in a Local Annual Aggregates Assessment (LAA) which is produced on an annual basis. Production of the LAA includes a period of consultation with industry and local authority members of the South East Aggregates Working Party.
- Data on the management of Local Authority Collected Waste is obtained from the central 'Wastedataflow' database and, as necessary, the Waste Disposal Authority is asked to verify the data and conclusions reached.
- Data on how policies which are implemented by district and borough councils, for examples those relating to safeguarding, have been collected via liaison with the district and borough councils.

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?

The monitoring process itself does not provide for flexibility. Instead, the monitoring process indicates how well the Plan is performing in terms of whether its objectives are being met. For example, monitoring will indicate whether sufficient facilities of a certain type are being permitted and developed. The Plan provides for flexibility by not unduly constraining waste and minerals development. It promotes the development of land for the management of waste and minerals supply in certain locations and in a manner which is consistent with its objectives associated with the achievement of sustainable waste management and minerals supply.

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?

The reserves of building stone are not reported in the AMR as there is only one source (Hermitage Quarry) and so the information is confidential. There is no requirement to maintain a landbank of building stone against which the adequacy of reserves would be assessed.

121. With reference to Policy CSW 2 and the Monitoring Schedule, how will reduction in waste and promotion of a circular economy be measured?

The reduction in waste will be measured by assessing the quantity of waste arising in any one year and then comparing it to previous years. The methods used to measure the quantity of waste arising will reflect those used in the Waste Needs Assessment 2022 which is set out, for various waste streams, in submission document references EB05, EB06, EB07/01 and EB08.

Indicators of whether promotion of a circular economy has been successful will include:

- The amount of waste that is produced per head of population in any one year;
- the movement of waste up the waste hierarchy i.e. whether the proportion of waste being recycled has increased; and,
- a reduction in minerals being supplied.

It is important to note that waste production and minerals supply can be influenced by the health of the economy. When the economy is thriving, industrial activities and consumer spending typically increase, leading to higher waste production. Furthermore, economic growth boosts the demand for minerals, especially those critical for the construction sector. The health of the economy will need to be factored in when assessing the successful promotion of a circular economy.

There are other indicators related to a circular economy e.g. product longevity, but these are not directly related to land use and so are beyond the remit of the KWMLP to monitor.

Other Matters

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

The Glossary (Appendix A) has been prepared in accordance with national legislation and planning policy and updated throughout the process. The County Council could consider the addition of text in the Glossary via a modification should the Inspector consider this appropriate. The Council suggests that to comply with its Statement of Common Ground agreed with Natural England in April 2024, the following definition of Ancient Woodland should be added to the Glossary: 'An area that has been wooded continuously since at least 1600 AD. It includes ancient semi-natural woodland and plantations on ancient woodland sites (PAWS).