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REPRESENTATIONS TO PRE SUBMISISON
DRAFT OF THE KENT MINERALS AND WASTE
LOCAL PLAN

KENT COUNTY COUNCIL

On Behalf of
Borough Green Sand Pits Ltd

February 2024

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1.0 INTRODUCTION

- 1.1 These representations have been prepared on behalf of Borough Green Sand Pits Ltd in response to the Regulation 19 Pre-Submission Draft of the Kent Minerals and Waste Local Plan 2024-39 (hereafter 'MWLP Consultation') being undertaken by Kent County Council (hereafter 'the MPA').
- 1.2 Borough Green Sand Pits Ltd (BGSP) operate an existing soft sand quarry in Borough Green which is coming towards the end of its life, with the final elements of sand being extracted and restoration ongoing. BGSP has also previously promoted land through the Minerals Sites Plan for a new soft sand quarry in Ryarsh known as 'Roughetts' and appeared at the Minerals Sites Plan Examination in Public.
- 1.3 Notwithstanding our Client's specific land interests, these Representations have been prepared in objective terms and assessed against the prevailing planning policy framework, in particular the Government's guidance set out in the National Planning Policy Framework (NPPF) (December 2023) and the National Planning Practice Guidance (NPPG) (March 2014 as updated).
- 1.4 Previous Representations to the Kent Minerals and Waste Local Plan Review highlighted relevant paragraphs of the NPPF for the development of a Local Development Plan, and those specifically related to minerals and waste planning including Paras 11, 22, 35, 219 and 220.
- 1.5 The purpose of the current consultation is to seek comments on the soundness and legal compliance of the MWLP prior to the submission of the Plan to the Secretary of State for Examination in Public. Additional changes have been made to policies since the previous consultation undertaken in July 2023.
- 1.6 These Representations are focused on the changes to Policy CSM2: Supply of Land Won Minerals in Kent and the Duty to Co-operate Report which has been published as a background evidence document. They should be read in conjunction with previous Representations made to the Further Changes Consultation undertaken in July 2023 as the most recent updates have not addressed our previous Representations.

2.0 REPRESENTATIONS TO POLICY CSM2: SUPPLY OF LAND-WON MINERALS IN KENT- SOFT SAND SUPPLY

- 2.1 Policy CSM2 and the associated pre-amble relating to soft sand have been significantly amended since the previous consultation undertaken in July 2023. The Policy wording now only commits to 'maintaining a landbank of soft sand at least equal to the 7-year landbank (as set out in the latest Local Aggregates Assessment (LAA)) to be maintained throughout the Plan Period (i.e. up until 2039). It should be noted that this is in conflict with the statement at Paras 5.2.23 and 5.2.24 which state that the 7-year landbank would only be maintained until around 2036 (at the current LAA rates) with a shortfall of 2.15mt in the maintained 7-year landbank by 2039.
- 2.2 The NPPF para 22 sets out that Strategic Policies, which includes those relating to minerals as defined in para 219, should look ahead over a minimum 15 year period from adoption. This allows Plans to anticipate and respond to long-term requirements and opportunities. The requirement to review plans every 5 years (as set out in NPPF para 33 and enshrined in Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012) is to assess whether spatial development strategies need updating to take account of changes to national policy and also changing circumstances affecting the area.
- 2.3 The full 15 year requirement should be planned for as part of the Local Plan process. The purpose of the 5-year review is only to address changes to national policy and changing circumstances affecting the local area. Kent County Council is already aware that it will need to review its Plan before the end of the 15 year period and make additional allocations. Not doing so now would mean the MWLP would not meet the requirements of NPPF Para 22 and would fail to be 'Positively Prepared', 'Effective' or 'Consistent with National Policy' in accordance with NPPF para 35.
- 2.4 NPPF Para 219 requires MPAs to plan for a steady and adequate supply of aggregates to ensure that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. The amendments to Policy CSM2 which commit only to maintaining a 7-year landbank (which in any case would not even extend to the end of the Plan Period) would not comply with NPPF Paras 22 or 219.
- 2.5 Paragraph 5.2.29 of the MWLP Consultation states that there is a requirement to review the Plan every 5-years which provides future staged opportunities to assess whether additional sites need to be allocated. The next review will be in 2029 and thereafter 2034. The MPA stated in its previous Consultation that at the beginning of 2024 it has a 10.7 year landbank of soft sand, this will dip below 7 years by mid-2027 at the latest if the Chapel Farm allocation

is not brought forwards. As such, the MPA is already at risk that the Plan will not provide for a steady and adequate supply in the immediate 5-years of the Plan ahead of any review.

- 2.6 The allocation that has been made at Chapel Farm is unable to be brought forwards until another active site at Burleigh Farm, Charing has been completed. This existing quarry and the new Chapel Farm quarry are both operated by Brett Aggregates. There is a risk that Brett Aggregates could delay bringing forwards Chapel Farm, or not bring it forwards at all. The MPA has no alternative option allocated for soft sand supply. The majority of other soft sand quarries within Kent are coming towards the end, with mineral nearly exhausted. Consequently, this would leave very little competition in the market with the largest landbank being bound up by Brett Aggregates, contrary to NPPF Para 219 (g) which requires MPAs to ensure large landbanks bound up in very few sites do not stifle competition. The MWLP would therefore not be 'Effective' or 'Consistent with National Policy'.

Forecasting Future Demand

- 2.7 Previous MWLP consultations have identified a continuing rise in soft sand sales since the current MWLP was adopted. This is reflected in both the increase in the 10-year sales average and the 3-year sales average which has now exceeded the 10-year average.
- 2.8 As part of the Minerals Sites Plan Examination the Inspector found that the use of the 10-year sales average to forecast demand was robust. This was on the basis that at that time the Housing Delivery Test (HDT) indicated that average housing delivery in Kent Authorities over the previous 3 years (before 2019) was 109% of the requirements for Kent or 98% of that required for Kent and Medway. As such, house building was close to, or above delivery requirements. At that time, the 3-year average for soft sand sales of 0.506mt was below the 10-year average of 0.568mt (which formed the LAA rate). This provided him with reassurance that the soft sand requirement in the Minerals Sites Plan would allow for an increased rate of house building than had recently taken place.
- 2.9 Since the adoption of the Minerals Sites Plan the 3-year sales average has overtaken the 10-year sales average as set out in the most recent LAA (December 2023). The 10 year sales average set out in the LAA was detailed as 0.475mt (increase from 0.456mt as reported in the November 2022 LAA) whereas the 3-year sales average is 0.52mt (increased from 0.468mt as reported in the November 2022 LAA). This confirms an increase in demand for soft sand in the 3 years since the Minerals Sites Plan was adopted.
- 2.10 The NPPF (Para 219) states Minerals Planning Authorities should plan for a steady and adequate supply of aggregates by... (a) preparing an Annual Local Aggregate Assessment.. to forecast future demand, based on a rolling average of 10-years' sales data and other relevant

local information, and an assessment of all supply options. We have consistently made Representations in relation to the need to consider other relevant local information in addition to the 10-year rolling supply.

2.11 The National Planning Practice Guidance (Para 064 Ref ID: 27-064-20140306) states that MPAs should also look at average sales over the last 3 years in particular to identify the general trend of demand as part of the consideration of whether it might be appropriate to increase supply.

2.12 Consideration of supply utilising the 10-year and 3-year sales averages is included below:

Without Chapel Farm Allocation

| | | Reserve at January 2024 | 7 year Landbank | Landbank | Year at which Landbank falls below 7 years |
|------------------------------|-----------|--------------------------------|------------------------|-----------------|---|
| 10 year sales average | 0.475mtpa | 5.099mt | 3.325mt | 10.7 years | Mid 2027 |
| 3 year sales average | 0.52mt | 5.099mt | 3.64mt | 9.8 years | Mid 2026 |

With Chapel Farm Allocation (assume 3.2mt supply)

| | | Total Reserve | 7 year Landbank | Landbank | Year at which Landbank falls below 7 years |
|------------------------------|-----------|----------------------|------------------------|-----------------|---|
| 10 year sales average | 0.475mtpa | 8.299mt | 3.325mt | 17.47 years | Mid 2034 |
| 3 year sales average | 0.52mt | 8.299mt | 3.64mt | 16 years | Early 2033 |

| | Total Reserve including Chapel Farm Allocation | Total Soft Sand Requirement (Plan Period 15 years) | Total Soft Sand Requirement (15 years + 7 year Landbank) | Reserve at 2039 | Deficit against 7 year Landbank |
|------------------------------|---|---|---|------------------------|--|
| 10 year sales average | 8.299mt | 7.125mt | 10.45mt | 1.174mt | -2.151mt |
| 3 year sales average | 8.299mt | 7.8mt | 11.44mt | 0.499mt | - 3.141mt |

2.13 Utilising the 3-year sales average, the soft sand landbank would fall below the 7 year requirement by mid-2026 without the Chapel Farm allocation. Should this allocation be brought forwards, this would allow for an extra 6.5-years of supply extending to early 2033. This is also on the basis that the 3.2mt supply identified at the Site is accurate as this figure is an estimate which is acknowledged at para 5.2.25 of the MWLP consultation:

It should be noted that there can be a lack of clarity in geology between soft sand and silica sand as they occur in the ground, as part of the same geological deposit. In light of this, it is necessary, in consultation with the operators, to determine the degree to which sites identified as supplying soft sand and/or silica sand may supply both materials. This can affect the aggregate monitoring data.

2.14 Previous Representations have highlighted other indicators of increased sales and potential inaccuracies in the self-reporting by soft sand operators.

2.15 It is BGSP's experience that information supplied by soft sand operators is not usually accurate. This is demonstrated by the "*error in reserve re-evaluations in 2020*"¹ between the 2021 and 2022 LAAs. It is understood an Operator overstated its reserve by more than 3mt, causing the reserve to be overestimated by more than 33%

2.16 As we have previously explained, it is also likely that the figures in relation to the existing Permitted Reserve are imprecise including because the reserves are calculated on the basis of annual reporting from landowners / operators as to both sales that have occurred over the previous year and the amount of reserve remaining available. The reported information is not publicly available on a 'quarry by quarry' basis for reasons of commercial confidentiality and

¹ Paragraph 7.7, Kent County Council Local Aggregate Assessment 2022, November 2022.

therefore there is no ability for the public or interested parties to interrogate the accuracy of the data.

- 2.17 Further, as there is a reliance on the landowner / operator to report accurately the Minerals Planning Authority has a limited ability to check the accuracy of the data by undertaking surveys. It is also not in the landowner's interest to report matters such as increase in sales or decrease in reserves as it might highlight breaches in planning control for which there may be enforcement consequences. As such, it is likely that reporting is inaccurate and therefore the amount of reserve available is less than identified in the Local Plan.

Other Indicators of Sales and Demand

- 2.18 We have previously highlighted the planning permission for Charing Quarry operated by Brett Aggregates (planning application KCC/AS/0016/2021). This permission allowed for a permanent increase in the number of vehicle movements from 110 per day to 150 per day (an increase of 36%). At the time of the application Brett Aggregates stated this increase in vehicle movements may speed up the extraction and restoration programme but it was not seeking to shorten the current planning permission period of 15- years (i.e. restoration to be completed by 2034).
- 2.19 The supporting statement included the following justification:

Brett has experienced an increase in customer demand for soft building sand. Demand is such that it is unable to be met with existing vehicle movements.

- 2.20 Since the time of the previous consultation of the MWLP the Maidstone Borough Local Plan Examination has progressed. Chapel Farm is located within the area of a significant strategic allocation known as the 'Heathlands'. As part of the Examination of the Maidstone Local Plan Brett Aggregates provided the Inspector with a letter detailing when and how Chapel Farm quarry would be progressed (letter dated 01 September 2022 and appended to these Representations). This letter states the following:

- **Burleigh Farm mineral is on course to be fully extracted by 2026/27**
- **Chapel Farm is due to commence extraction in 2027/28 (subject to Planning)**
- **A progressive scheme of extraction and restoration at Chapel Farm which is co-ordinated to the development phasing is feasible... restored land will become available for development from 2034 on a phased basis**

- **Current programme of extraction to 2034 is consistent with market conditions and demand (for soft sand) and will adequately meet objectively assessed need over the lifetime of the Kent Minerals and Waste Plan 2013-2030 and so will not result in an over-supply based on accelerated phasing.**

- 2.21 It is therefore clear from the recent actions and Representations of Brett Aggregates that soft sand sales have increased so much as to both result in an accelerated extraction of Burleigh Farm and to allow Chapel Farm to be commenced at an earlier date than originally envisaged as part of the Minerals Sites Plan. If extraction at Chapel Farm commences in 2027/2028 and would be complete by 2034 this in itself indicates a sales rate of 0.53mt per year from Chapel Farm quarry alone (3.2mt / 6 years). This is well above the County wide LAA used within the MWLP Consultation.
- 2.22 If the MPA is aware of these forecast sales figures it has not reflected this "*other relevant local information*" in its consideration of forecasting future demand. Clearly, Brett Aggregate soft sand sales have increased to provide for the increase in vehicle movements at Burleigh Farm and to allow Chapel Farm to be commenced earlier than envisaged. If KCC was not aware of these increasing sales rates, then this would be a further indication of the misreporting of the operators as detailed previously in these Representations.
- 2.23 Finally, it is our experience from sales at the Borough Green Sand Pits quarry that soft sand sales are increasing. We attach letters from Tarmac, GRS Building Products Ltd, East Thames Aggregates, Gill Aggregates and Day Aggregates setting out their current soft sand usage at 347,000 tones per year (0.347mtpa). This is a significant proportion of the soft sand sales average included within the MWLP and clearly only relates to a small proportion of the overall customer base for soft sand. This indicates that the reporting of soft sand sales in Kent is unlikely to be accurate and is therefore much higher than the 10-year sales average. Each of the responses also sets out that demand is increasing.

Soft Sand Position Statement

- 2.24 It has been long acknowledged that in the south-east the supply of soft sand is constrained by the South Downs National Park (Hampshire, West Sussex and East Sussex), the Surrey Hills Area of Outstanding Natural Beauty (Surrey) and the Kent Downs Area of Outstanding Natural Beauty (Kent). Consequently, it is important for the Authorities to work together to ensure a steady and adequate supply of minerals across the region. This joint working primarily occurs through the South East England Aggregate Working Party (SEEAWP). Membership includes numerous Local Authorities across the South East together with members of Industry.

- 2.25 We have previously made substantial Representations in relation to the need for Kent County Council to assess and consider wider regional growth and supply needs in the calculations of its soft sand requirements due to its importance to supply within the south east region.
- 2.26 At the time of adoption of the Minerals Sites Plan the Inspector concluded that whilst East Sussex County Council, Brighton and Hove City Council and West Sussex County Council were solely or largely reliant upon imports, this would be accounted for in Kent County Council's 10-year sales average. The identified surplus in soft sand during that Plan Period (2019 to 2030) which would be generated as a result of the allocation of Chapel Farm would contribute to wider regional need (Inspector's Report Paras 55 and 56 attached as an Appendix to these Representations). This would therefore effectively serve as an additional buffer of supply. However, Para 57 also concluded that monitoring of soft sand in the south east is an ongoing matter which may require a future review of the Plan.
- 2.27 The updates to the MWLP now detail that Kent County Council is only committing to maintaining a 7-year land bank over the extended Plan Period to 2039. There is no longer a surplus to be generated to meet wider regional needs which is a significantly different position to that in 2019 when the Minerals Sites Plan underwent Examination in Public.
- 2.28 The position of the other Minerals Planning Authorities which are likely to be reliant on soft sand reserves from Kent (as previously identified by the Inspector) are included in the table below. This information is derived from the relevant LAAs, or details contained within Consultations on emerging Local Plans:

| Authority | Landbank | Commentary |
|--|-----------------|---|
| East Sussex, South Downs and Brighton and Hove Waste and Minerals Revised Policies Main Modifications Consultation | 0 | No allocation for soft sand and reference to Norrington Sandpit removed (where reserve of 250,000 tonnes remains) as it has not been worked since 2013. All soft sand supply is met by road imports |
| Surrey County Council | 10.23 years | LAA recommends increase of LAA rate to 0.5mtpa to take account of increasing demand for soft sand in construction. Previous LAAs report a reduction in the landbank from 14.9 years (reported in 2020 LAA) to 10.23 years (2022 LAA). |

| | | |
|-------------|------------------------------------|---|
| | | Overall, the Council estimates a soft sand reserve across the County of 187.63mt (not benefitting from planning permission to be worked). Majority of remaining soft sand reserve is within the Surrey Hills AONB. If the AONB was to be extended in accordance with a consultation undertaken in March 2023, the remaining reserve outside of the AONB would be 17.83mt. |
| West Sussex | 4 years | <p>The majority of remaining reserve is located within the South Downs National Park.</p> <p>Soft Sand Review (adopted March 2021) allocated 3no. sites with a potential supply of 2.68mt. 2no. of these sites are located in the South Downs National Park. Applications for these sites have not yet been forthcoming and pre-application discussions have only occurred for 1no. site.</p> <p>The LAA published in January 2024 looks at various local scenarios to consider soft sand requirements including an increase in house building of 22.2% between 2023-2033, and up to 88% of soft sand and gravel being used in the construction of dwellings. Using these local circumstances scenarios, the landbank is calculated at between 4.5 years and 3.7 years.</p> |
| Hampshire | 8.34 years (LAA published 2021) | <p>Most recent LAA (Feb 2023) does not separate soft sand from sand and gravel.</p> <p>2020 Review of Hampshire Minerals and Waste Plan (Published November 2020) identified a steady increase in soft sand sales between 2009-2018.</p> |

2.29 As part of the Evidence documents to the MWLP Consultation, the MPA has published a Duty to Co-operate Report (January 2024). The South East Mineral Planning Authorities Soft Sand Position Statement (2023) has been included as an Appendix to this Report. The data included within the Position Statement is out of date as it includes figures from 2021 whereas there have been recent publications of LAAs for 2022 which show a worsening landbank across the south east region. This notwithstanding, Para 3.26 identifies only a collective landbank of 10 years from 2021 (estimated to be 12 years in 2020). Once again, this is an indicator of resources depleting rapidly and soft sand sales increasing. As the figures were taken from 2021 they demonstrate that across the Region, by 2025 there will not be an available 7-year landbank.

2.30 Neither the Duty to Co-Operate Statements not the Soft Sand Position Statement have been signed and it is therefore not possible to understand whether all parties are in agreement with the information included. Comments received to the previous Regulation 18 Consultation undertaken in July 2023 from the South Downs National Park Authority state:

The Joint East Sussex Minerals Plan relies on soft sand imports from Kent and other areas, and Kent County Council needs to assess demand through their Local Aggregate Assessment. The Position Statement and Statement of Common Ground stress the importance of identifying new soft sand sites across the region, encouraging expansion of opportunities for additional sites outside designated areas to meet the regional soft sand demand and supply.

2.31 This provides an indication that potentially the SoCG and Position Statement are not agreed by all Authorities.

2.32 Hampshire County Council, West Sussex County Council and Surrey County Council have started to consider local circumstances within their consideration of soft sand need and landbank. The Hampshire County Council Minerals and Waste Plan Consultation undertaken in November 2020 references an agreement by the South East England Aggregates Working Party (SEEAWP) that the LAA rate should be calculated by taking account of a number of factors including the 10 year aggregate sales data, 3 year aggregate sales data, economic forecasts, population, housing and capital programme growth and major infrastructure projects. It therefore appears there is an Agreement between the Minerals and Waste Authorities that local considerations will be taken into account in calculating the LAA rate which KCC has not done.

2.33 Consequently, there is a worsening landbank across the south east region. Kent is a key supplier of soft sand within the wider region. It is therefore imperative that additional sites

are allocated to provide additional soft sand supply across the Plan Period to positively plan for a steady and adequate supply of minerals across the Plan Period to serve the wider regional need in accordance with NPPF para 219 in order to be 'Positively Prepared', 'Effective' and 'Consistent with National Policy'.

3.0 CONCLUSIONS

- 3.1 These Representations are made on behalf of Borough Green Sand Pits Ltd to KMWLP Consultation.
- 3.2 The KMWLP Consultation does not adequately plan for minerals across the 15-year Plan Period. At best, it only commits to maintaining a 7-year landbank which it is unable to demonstrate past 2034 with current Minerals Sites Plan allocations. If the one allocation is not brought forwards, the MPA will not be able to demonstrate a 7-year landbank from mid-2026 (i.e. before the 5 year review). The MWLP therefore fails to be 'Positively Prepared' in that it does not provide a strategy which as a minimum seeks to meet the area's objectively assessed needs and is not 'Consistent with National Policy' in accordance with NPPF para 35.
- 3.3 The Minerals Sites Plan makes only 1no. soft sand allocation to an operator who cannot bring forward the Site until it has finished quarrying an existing Site. The failure to allocate additional and alternative soft sand sites would stifle competition and put at risk the ability to maintain soft sand supply should that site not be brought forwards. This would be contrary to NPPF Para 219 (g).
- 3.4 The 3-year sales average is now greater than the 10-year sales average which indicates an increase in sales over the short term. There is no longer a demonstrable surplus of soft sand to meet wider regional needs. The MPA is ignoring all indicators that soft sand sales are increasing and that the landbank and reserves are decreasing. These indicators include:
- Chapel Farm to be brought forwards at an earlier date and with an expected extraction rate of 0.53mtpa (i.e. in excess of the LAA rate set in the MWLP Consultation)
 - Brett Aggregates indication that sales have significantly increased at Burleigh Farm
 - Indications from other MPAs about their declining landbanks
 - Difficulties in allocating new sites in other MPA areas due to increasing environmental constraints- such as National Park, extension to the Surrey Hills AONB.
- 3.5 The MWLP therefore does not plan adequately for the increasing demand for soft sand or the increasing regional constraints on soft sand supply. It is therefore not based upon effective joint working on cross boundary strategic matters, instead deferring issues for later Review. It also does not seek to meet unmet need from neighbouring areas which have been highlighted in neighbouring Authority LAAs and Local Plan consultations. It has therefore not been 'Positively Prepared' and is not 'Effective' in accordance with NPPF Para 35.
- 3.6 Therefore, the MWLP is not 'Sound' as it has not been 'Positively Prepared', it is not 'Effective' or 'Consistent with National Policy'. Kent County Council should plan positively for a steady

and adequate supply of soft sand by allocating additional soft sand sites as part of the review of the Kent Minerals and Waste Local Plan.



The Planning Inspectorate

Report to Kent County Council

By Nick Palmer BA (Hons) BPI MRTPI
an Inspector appointed by the Secretary of State

Date: 23 April 2020

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Kent Minerals and Waste Local Plan Early Partial Review and Kent Mineral Sites Plan

The Plan was submitted for examination on 3 May 2019

The examination hearings were held between 8 and 15 October 2019

File Ref: PINS/W2275/429/9 and PINS/W2275/429/10

Abbreviations used in this report

| | |
|--------|---|
| AA | Appropriate Assessment |
| AONB | Area of Outstanding Natural Beauty |
| APC | Air Pollution Control |
| BHCC | Brighton and Hove City Council |
| C&I | Commercial and Industrial |
| CRRNH | Capacity Requirement for the Management of Residual Non-Hazardous Waste |
| EA | Environment Agency |
| EPR | Early Partial Review |
| ESCC | East Sussex County Council |
| HRA | Habitats Regulations Assessment |
| KJMWMS | Kent Joint Municipal Waste Management Strategy |
| KMWLP | Kent Minerals and Waste Local Plan |
| LAA | Local Aggregates Assessment |
| LACW | Local Authority Collected Waste |
| MM | Main Modification |
| MSA | Mineral Safeguarding Area |
| MSP | Mineral Sites Plan |
| NDA | Nuclear Decommissioning Authority |
| NE | Natural England |
| PLA | Port of London authority |
| RDF | Refuse Derived Fuel |
| RWS | Resources and Waste Strategy |
| SA | Sustainability Appraisal |
| SEAWP | South East England Aggregates Working Party |
| SEWPAG | South East Waste Planning Advisory Group |
| SoCG | Statement of Common ground |
| SPD | Supplementary Planning Document |
| tpa | tonnes per annum |
| WFD | Waste Framework Directive |
| WSCC | West Sussex County Council |

Non-Technical Summary

This report concludes that the Kent Minerals and Waste Local Plan Early Partial Review (EPR) and Kent Mineral Sites Plan (MSP) provide an appropriate basis for the planning of minerals and waste development in Kent, provided that a number of main modifications [MMs] are made to them. Kent County Council ("the Council") has specifically requested that I recommend any MMs necessary to enable the Plans to be adopted.

The MMs all concern matters that were discussed at the examination hearings. Following the hearings, the Council prepared schedules of the proposed modifications and carried out sustainability appraisal of them. The MMs were subject to public consultation over an eight-week period. I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The MMs can be summarised as follows:

- Modification to Policy CSM2 to reflect current mineral reserves and monitoring requirements and to remove the expectation regarding allocation of sites for clay and chalk extraction;
- Modifications to Policy DM7 and its supporting text to provide further explanation of mineral safeguarding requirements;
- Modification to Policy CSW5 regarding the strategic waste allocation at Norwood Quarry and Landfill Site, Sheppey to ensure its effectiveness;
- Inclusion of a reference to the definition of recycling in the glossary to support Policy CSW7;
- Requirements for minerals development on the allocated sites to secure net gain for biodiversity;
- Requirements to examine the proposals at Stonecastle Farm and Moat Farm against national Green Belt policy;
- Requirements for development on all allocated sites to fully consider heritage impacts, in accordance with national policy;
- Measures to secure full assessment of potential impacts on water resources at Moat Farm, and necessary mitigation;
- Strengthened requirements for access at Moat Farm;
- Strengthened requirements for biodiversity, public rights of way and landscape considerations at Chapel Farm; and
- Addition of a timing requirement at Chapel Farm to minimise risk of cumulative impacts with a nearby site.

Introduction

1. This report contains my assessment of the Kent Minerals and Waste Local Plan EPR and MSP in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended) ("the 2004 Act"). It considers first whether the preparation of the Plans has complied with the duty to co-operate. It then considers whether the Plans are sound and whether they are compliant with the legal requirements. The National Planning Policy Framework 2019 (the Framework), in paragraph 35, makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the minerals and waste planning authority has submitted what it considers to be sound plans. The EPR of the Kent Minerals and Waste Local Plan (KMWLP) and the MSP, which were both submitted in May 2019 are the basis for my examination. They are the same documents as were published for consultation in January 2019.
3. The KMWLP was adopted in 2016. The EPR makes the following changes to the KMWLP, in summary:
 - it is not now proposed to produce a Waste Sites Plan, following a re-assessment of need for waste facilities over the plan period;
 - two policies which deal with safeguarding of minerals resources and minerals and waste infrastructure are to be amended to ensure their effectiveness; and
 - a policy change in respect of the Strategic Site Allocation at Norwood Quarry to ensure that the site can be suitably restored should it no longer be used for tipping of flue ash.
4. The MSP allocates two sites for sharp sand and gravel extraction and one site for soft sand extraction.

Main Modifications

5. In accordance with section 20(7C) of the 2004 Act the Council requested that I recommend any MMs necessary to rectify matters that make the Plans unsound and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the examination hearings, are necessary. The MMs are referenced in bold in the report in the form **EPR/MM1**, etc for the EPR and **MSP/MM1**, etc for the MSP. These are set out in full in Appendices 1 and 2.
6. Following the examination hearings, the Council prepared schedules of proposed MMs and carried out sustainability appraisal (SA) of them. The MM schedules and SAs were subject to public consultation for eight weeks. I have taken account of the consultation responses in coming to my conclusions in this report. The MMs do not affect the Habitats Regulations Assessment (HRA) previously carried out.

Policies Map

7. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as 'Safeguarded Wharves and Rail Transportation Depots' and 'Mineral Safeguarding Areas' in section 9 of the KMWLP. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend MMs to it.

Assessment of Duty to Co-operate

8. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the preparation of the Plans.
9. The duty applies to strategic matters which are defined as sustainable development or use of land that has or would have a significant impact on at least two planning areas or on a county matter in a two-tier area. The requirement is for local authorities to engage constructively, actively and on an on-going basis with prescribed bodies in order to maximise the effectiveness of plan preparation.
10. The processes of engagement in respect of both the EPR and the MSP began in 2016 and continued up to submission of the Plans. The Council has engaged with District and Borough Councils in Kent, with adjoining authorities and other authorities which either send or receive waste to or from Kent in preparing the EPR. This included a targeted consultation exercise with respect to hazardous waste disposal and residual waste management capacity. There has been active engagement on waste matters through the South East Waste Planning Advisory Group (SEWPAG). This has informed the EPR process through a greater understanding of cross-boundary movements of waste in the south-east and the need for hazardous waste facilities. Concerns have been expressed at the intention to not allocate a site for asbestos disposal, but the Council has demonstrated that there is no need to allocate a site for this purpose. Irrespective of whether there may be an outstanding point of objection on this matter, the Council has demonstrated that it has engaged actively and constructively in preparing the EPR.
11. Statements of common ground (SoCG) have been progressed with Kent District and Borough Councils throughout the period up to submission which principally concern safeguarding of minerals and of mineral and waste facilities. This demonstrates active, constructive and on-going engagement in the EPR. Some of those SoCGs were not completed until after submission but this does not mean that the duty to co-operate has not been met.
12. With respect to the MSP, there has been active engagement on minerals through the South East England Aggregates Working Party (SEEAWP). There has been engagement with minerals planning authorities in the south-east regarding the supply of soft sand given the constraint imposed by the South

Downs National Park designation which lies outside Kent. A SoCG has been agreed between the Council and West Sussex County Council (WSSC), East Sussex County Council (ESCC), Brighton and Hove City Council (BHCC) and the South Downs National Park Authority on this matter. I consider this further in paragraph 55 of this report.

13. On both plans there has been active and direct engagement with the Environment Agency (EA), Historic England, Natural England (NE), Highways England and the Marine Management Organisation. This has strongly influenced the determination of the proposed site allocations in the MSP.
14. Engagement with NE has resulted in an addendum to the HRA in respect of the EPR and the MSP. A SoCG between the Council and NE was signed after submission but the process of constructive dialogue during preparation is demonstrated. The Council has also engaged with the other bodies prescribed in the Town and Country Planning (Local Planning) (England) Regulations 2012 (the 2012 Regulations).
15. I am satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plans and that the duty to co-operate has therefore been met in respect of the EPR and the MSP.

Assessment of Soundness

Main Issues

16. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified four main issues upon which the soundness of the EPR and MSP depend. This report deals with these main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy or policy criterion in the Plan.

Issue 1 – Whether or not the waste policies as amended by the Early Partial Review would be positively prepared, justified and otherwise sound

Background

17. The KMWLP was adopted in July 2016. A number of its policies state that sites for waste development will be identified in the Waste Sites Plan. Policy CSW8 makes provision for sites for recovery facilities, Policy CSW12 provides for allocation of a site for landfilling of asbestos waste and Policy CSW14 provides for a site for disposal of dredgings. Policies CSW6 and CSW7 make provision for sites to be allocated for recovery and green and kitchen waste development. The Council has reviewed the need for the waste facilities identified in the above policies and no longer proposes to produce a Waste Sites Plan.

Recovery Provision

18. Part of the strategy for waste management capacity as set out in the KMWLP is to maintain net self-sufficiency whereby sufficient facilities are provided in Kent to manage the equivalent quantity of waste as is produced in Kent with

some provision for a reducing amount of London's waste. This recognises that in reality waste crosses County boundaries in accordance with the operation of the market. This approach is continued in the EPR.

19. Article 16 of the Waste Framework Directive (WFD)¹ states that the network of waste recovery and disposal installations shall be designed to enable the European Community as a whole to become self-sufficient and to enable member states to move towards that aim individually. Net self-sufficiency of individual authorities is an agreed strategy between the SEWPAG authorities as set out in their Memorandum of Understanding. This recognises that it may not be possible for each authority to provide for all of its waste management needs and that there will inevitably be cross-boundary movements of waste. The approach is consistent with the aims of the WFD in this respect.
20. The Capacity Requirement for the Management of Residual Non-Hazardous Waste² (CRRNH) has assessed the need for provision for residual non-hazardous waste arising in Kent, including Local Authority Collected Waste (LACW) and Commercial & Industrial (C&I) waste, as well as some waste originating from London. The calculation of need takes into account revised recycling rates which are based on government guidance and the actual rates achieved. The forecast requirement is based on continuing reductions in landfill.
21. The CRRNH considers the capacities of existing consented facilities and the extent to which they would satisfy identified need. A permitted facility at Barge Way has not been built. Irrespective of whether there is any uncertainty as to whether that facility will be provided, the strategy for waste management capacity does not depend on its provision. Waste arisings are forecast for intervals of 5 years up to the end of the Plan period in 2030/31. The proposed diversion of LACW and C&I waste from landfill is greater than that in the KMWLP. The proportions of those waste streams that are to be subject to other recovery instead of recycling/composting are greater in the EPR than in the KMWLP, taking into account the re-assessed recycling rates.
22. Since adoption of the KMWLP, a significant new waste recovery facility has been built at Kemsley and is being commissioned. This provides capacity of 525,000 tonnes per annum (tpa). Policy CSW7 of the KMWLP identifies a recovery requirement of 562,500 tpa but this requirement has been re-assessed in the CRRNH having regard to the revised recycling rates and revised figures for diversion of waste from landfill.
23. Table 9 of the CRRNH shows that there is no gap in capacity for other recovery treatment of residual non-hazardous waste throughout the Plan period and demonstrates that the Kemsley facility together with the existing Allington facility will provide a surplus of other recovery capacity. On this basis there is no need to allocate sites. However, Policies CSW6 and CSW7 provide flexibility in that they are permissive policies that would allow for other recovery facilities to be developed should they be required.

¹ Directive 2008/98

² Part of the Kent Waste Needs Assessment 2018 (KCC/SP38)

24. The manufacture of Refuse Derived Fuel (RDF) is an intermediate process prior to its incineration. At present RDF is exported to mainland Europe for incineration but uncertainties have been identified by waste operators as to the extent to which this will continue in the future. If the export market for RDF were to change in the future, then this could require additional incineration capacity in this country. The Council has taken into account RDF that is manufactured in Kent in its assessment of C&I waste need.

Recycling/Composting

25. Recycling targets have been scaled back to reflect targets set in the Government's Resources and Waste Strategy³ (RWS) and to be more realistic having regard to actual recycling rates achieved.
26. Policy CSW4 of the KMWLP requires as a minimum the targets for recycling and composting identified in the Kent Joint Municipal Waste Management Strategy (KJMWMS) to be achieved. The policy does not specify the actual targets but acknowledges that the KJMWMS may be subject to amendment and that targets may change. The targets set out in Policy CSW4 in the EPR are consistent with the KJMWMS of 2018 and the targets in the Government's RWS. Progression to the RWS targets has been amended to more realistically reflect those that have been achieved. The Council has demonstrated that increases in recycling rates will be achieved through a variety of initiatives including food waste recycling.
27. Policy CSW7 identifies a need for an additional 64,000 tpa capacity in 2024 for green and kitchen wastes. There is a surplus of capacity for recycling facilities⁴ throughout the Plan period but the KMWLP identifies a need for additional composting facilities. The calculation of green and kitchen waste treatment capacity in Policy CSW7 was based on targets from the former Regional Spatial Strategy, the South East Plan. There is no justification, however, for separate consideration of these wastes, and it is appropriate to consider these as part of the overall recycling and composting requirement.
28. There is no shortfall, and indeed there is a surplus, of recycling and composting facilities considered together throughout the Plan period. Policy CSW7 is permissive in respect of proposals that may come forward.
29. The supporting text to Policy CSW7 should be clear that composting forms part of recycling as defined in the Glossary to the KMWLP. This change is necessary to ensure the policy is effective. **EPR/MM6** adds a footnote which clarifies this and is necessary for soundness.

Hazardous Waste

30. The KMWLP, in Policy CSW5 identifies an extension to Norwood Quarry on the Isle of Sheppey as a landfill site for hazardous flue dust ash residues from facilities in Kent. Air pollution control (APC) residues are landfilled on the

³ Our Waste, Our Resources: A Strategy for England, Defra, December 2018

⁴ Tables 2, 3 and 10, Kent Waste Needs Assessment 2018 Non Hazardous Waste Recycling/Composting Capacity Requirement (KCC/SP37)

basis of a derogation under the Landfill Directive. The Strategy for hazardous waste management in England (March 2010) sets out high level principles for management of hazardous waste. One of these is that the practice of relying on higher Landfill Directive waste acceptance criteria to enable some hazardous waste to continue to be landfilled must end.

31. In recognition of this, the Plan policy needs to be flexible to facilitate changes to the existing arrangement if required as a result of changing government policy. If landfilling of APC residues were to cease, then it would be necessary to ensure restoration of Norwood Quarry can be achieved and to consider other types of landfill in order to achieve this. Policy CSW5 of the EPR provides for this and also allows for flue dust ash residues to be imported from outside Kent, in recognition that the facility is of more than local importance.
32. Because Policy CSW5 of the EPR would allow by inference for other waste to be deposited in the circumstances described in amended criterion (1), in order to avoid any potential ambiguity and to ensure effectiveness it is necessary to amend the first paragraph of the policy to refer to this provision. **EPR/MM5** makes this change.

Asbestos Waste

33. The Council's assessment of hazardous waste needs identifies that Pinden Quarry has sufficient capacity to accommodate asbestos waste arising in Kent over the remainder of the Plan period, and to accommodate asbestos waste from outside the County. On this basis the allocation of a site for landfilling of asbestos waste as provided in Policy CSW12 of the KMWLP is not justified. Policy CSW12 of the EPR is necessary to remove this provision. This policy is consistent with national policy without modification.

Disposal of Dredgings

34. Policy CSW14 of the KMWLP provides for the allocation of a site for disposal of dredgings, that is material dredged from estuaries to ensure they are navigable, and which cannot be re-used. The Port of London Authority (PLA) and the Medway Ports Authority are responsible for such dredging and the PLA has stated that there is a lack of certainty as to whether a site will need to be provided within the Plan period. Policy CSW9 allows for development of non-inert landfill sites. For these reasons the deletion, in the EPR, of the part of Policy CSW14 that states that a site for disposal of dredgings is to be allocated is justified.
35. The policies in the KMWLP are permissive and allow for development for waste treatment without the need to allocate specific sites. On this basis the Council does not intend to prepare a Waste Sites Plan and I am satisfied this approach is sound, taking into account the foregoing. The Local Development Scheme will need to be amended accordingly.

Radioactive Waste

36. The Nuclear Decommissioning Authority (NDA) and Magnox have made representations concerning Policy CSW17. That policy does not form part of the EPR and is not for my consideration. The Council advised however that it

will liaise with the NDA and consider this matter as part of a future review of the Plan. I note that a SoCG in this respect has been prepared.

Conclusion on Issue 1

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.

Issue 2 – Whether or not the amended safeguarding requirements for minerals and waste in the Early Partial Review are sound

38. The EPR proposes amendments to Policies DM7 and DM8 of the KMWLP which concern safeguarding of mineral resources and minerals management, transportation, production and waste management facilities. The amendments make clear that sites that are allocated in local plans for other development are only exempt from safeguarding requirements where mineral safeguarding was previously considered as part of local plan examination.

Policy DM7 – Safeguarding Mineral Resources

39. Policy DM7 of the KMWLP requires any non-mineral development that is incompatible with minerals safeguarding to demonstrate that one of seven criteria are met. The seventh criterion is that the development would be on a site allocated in the adopted development plan. It is to be expected that local plans will consider the need to safeguard mineral resources in allocating land for non-mineral uses, as stated in paragraph 5.5.14 of the KMWLP. However, the existing policy criterion does not require this. As such, there is the possibility that non-minerals development could sterilise mineral resources if safeguarding has not been considered in the local plan process. The EPR proposes additional text to criterion 7 of the policy to ensure this requirement is clear.
40. Safeguarding of mineral resources is a requirement of national policy. The Framework states that planning policies should safeguard mineral resources and that "*known locations of specific mineral resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked)*". Mineral Safeguarding Areas (MSA) are shown on the Policies maps. Urban areas are excluded from the MSAs as the mineral resource is already sterilised by non-mineral development with very little prospect of future working.
41. The Council's Supplementary Planning Document (SPD) on safeguarding explains how the policy is to be applied to development proposals and in preparation of local plans. The Council explained that the SPD is to be updated following publication of my report.
42. The supporting text in the EPR states that proposals in MSAs will usually need to be accompanied by a Minerals Assessment. In order to be effective, the

text should provide further explanation that development that has not previously been subject to minerals assessment as part of the local plan process should provide such assessment as part of the application process. **EPR/MM7** makes this change which is necessary to ensure soundness.

43. In order for the policy to be effective and sound, it is necessary to explain that there may be circumstances where mineral extraction would not be practicable. It is necessary to provide further explanation as to how mineral safeguarding should be considered in local plan preparation and that the Safeguarding SPD will provide guidance. Clarification as to how safeguarding will be considered in respect of non-allocated sites is also necessary, including consideration of need for non-mineral development. **EPR/MM7** and **EPR/MM8** are necessary to provide clarification and ensure effectiveness.
44. District and Borough Councils have expressed concerns about the application of the policy to sites that are allocated in local plans that were adopted before the KMWLP in which minerals safeguarding was not considered. Otherwise, there is a good level of agreement between the authorities regarding safeguarding requirements. The policy would require a minerals assessment where one has not previously been carried out and this is in accordance with national policy. The criteria of Policy DM7 in the EPR would allow for balanced and flexible decisions to be made.
45. Mineral safeguarding was considered in the Maidstone Borough Local Plan (2017). The Inspector concluded that non-mineral development on allocations within the Limestone Hythe Formation (Kentish Ragstone) and the Sandstone-Sandgate Formation would not result in a material inconsistency with national policy since these minerals are not likely to be needed. As submitted, policy DM7 of the EPR and its supporting text would conflict with that plan and would not be justified. **EPR/MM7** is necessary to amend the supporting text to Policy DM7 to make changes in this respect. Because the SPD will also provide detailed guidance, it is necessary for the policy to refer to this document in order to ensure it is effective. **EPR/MM8** is necessary to make this change.

Policy DM8 – Safeguarding Minerals Management, Transportation, Production & Waste Management Facilities

46. Policy CSM7 of the KMWLP safeguards other mineral plant infrastructure and Policy CSW16 safeguards existing waste management facilities. Policy DM8 of the KMWLP sets out the criteria against which development that is incompatible with this infrastructure and those facilities will be assessed. Criterion (2) of that policy allows for development that is incompatible with safeguarded minerals management, transportation, production and waste management facilities on sites that have been allocated in local plans.
47. Safeguarding of sites for minerals processing, production and transportation is required by the Framework. The National Planning Policy for Waste requires consideration of the impact of non-waste related development on existing waste management facilities and sites allocated for those facilities.
48. The EPR makes a change to Policy DM8 of the KMWLP to remove the possibility that safeguarding of minerals and waste infrastructure and facilities could potentially be overridden if this was not considered during local plan

preparation and adoption. The criteria of Policy DM8 of the EPR allow for various factors to be taken into account by authorities in making decisions on developments other than minerals and waste development. The criteria would allow for balanced and flexible decisions to be made. The policy is consistent with national policy, effective and sound without modification.

Conclusion on Issue 2

49. The policies for safeguarding mineral resources and minerals and waste infrastructure in the EPR as submitted are not sound for the reasons given. The MMs as described and set out in the appendices are necessary to make those policies sound.

Issue 3 – Whether or not the Mineral Sites Plan and Early Partial Review would provide adequately for aggregates in accordance with national policy

Objectively assessed need

50. Policy CSM2 of the KMWLP states that mineral working will be granted planning permission at sites identified in the MSP. The submitted MSP allocates two sites for extraction of sharp sand and gravel (Stonecastle Farm and Moat Farm) and one site for soft sand (Chapel Farm).
51. The Local Aggregates Assessment (LAA) considers that use of the last 10 years sales data, as required by national policy is the most reliable metric for considering demand over the Plan period. Modelling based on local demand was previously considered in examination of the KMWLP, but this was found to be unreliable and to be significantly lower than the 10-year sales average. SEEAWP endorses the use of the 10-year sales average without any supplementary local demand modelling. I agree that the use of 10 years sales data is the most reliable method of forecasting demand. No alternative approach using local modelling has been demonstrated to be reliable.

Sharp Sand and Gravel

52. The KMWLP states in paragraph 5.2.20 that 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, marine-dredged aggregates and imported aggregates. Because the sharp sand and gravel resource has been greatly depleted by extensive historical working, the planned provision of at least 10.08mt made in Policy CSM2 for this material is less than the identified requirement of 13.26mt. Paragraph 3.5 of the MSP states that, since the KMWLP was adopted, the permitted reserves of sand and gravel have increased, and the 10-year sales average has decreased. This leads to a revised calculation of sharp sand and gravel requirements in Figure 1 of the MSP. However, paragraph 3.5 of the MSP gives an inaccurate figure of 10.8mt in respect of the KMWLP provision and is not effective. **MSP/MM1** is necessary to correct this.
53. The revised calculation of the sharp sand and gravel requirement is for 5.75mt up to the end of the Plan period and including a 7-year landbank as required

by the Framework. The two sites proposed to be allocated would provide 2.5mt, leaving a deficit of 3.25mt over the Plan period. This does not differ significantly from the deficit of 3.18mt envisaged in the KMWLP. On this basis, the provision for site allocations to be made in the MSP would be reasonably closely aligned with the provision identified in Policy CSM2.

54. The deficit is to be addressed by provision for secondary and recycled aggregates and importation of marine-dredged aggregates as well as land-won aggregates from elsewhere. Supplies of secondary and recycled aggregates are provided for by Policies CSM7 and CSM8 of the KMWLP. Minerals infrastructure is safeguarded by Policies CSM6, CSM7, CSM12 and DM8 of the KMWLP and the EPR.

Soft Sand

55. In the south-east the supply of soft sand is constrained by the South Downs National Park designation. The Framework requires, as far as is practical, the maintenance of landbanks of non-energy minerals from outside National Parks. The SoCG with WSCC, ESCC, BHCC and the South Downs National Park Authority sets out how the authorities will plan, jointly and individually for the steady and adequate supply of soft sand. There is also a Soft Sand Position Statement that Mineral Planning Authorities in the south-east are party to. Paragraph 3.18 of the MSP, which states that the surplus of soft sand will contribute to wider regional need is consistent with the joint working that is taking place.
56. The allocated site at Chapel Farm provides for a surplus of soft sand relative to the identified requirement in Policy CSM2 of the KMWLP, which includes a 7-year landbank as required by the Framework. The surplus has increased from 0.7mt to 1.122mt following an adjustment to average sales figures to reflect a reduction in sales in 2018.
57. ESCC and BHCC are wholly reliant on imports of soft sand while WSCC has limited reserves. Soft sand is exported to those Counties and this is accounted for in the 10-year sales average. The Council recognises that monitoring of soft sand use in the south-east is an ongoing matter which may require a future review of the Plan.
58. The Housing Delivery Test 2018 measurements show that the average housing delivery in Kent authorities over the previous 3 years was 109% of the requirements for Kent or 98% of the requirements for Kent and Medway. While this indicates that house building was close to, or above delivery requirements, the 3-year average for soft sand sales of 0.506mt is below the 10-year average of 0.568mt which forms the LAA rate. This provides reassurance that the soft sand requirement in the MSP would allow for an increased rate of house building than has recently taken place.

Alternatives

59. The Plan envisages greater use of alternatives to indigenous land-won aggregates. The LAA shows that there is existing capacity to significantly increase production of secondary and recycled aggregates in the county.

60. Marine-dredged sand and gravel is imported via Kent wharves and the Council anticipates that the use of this material could be increased to address the shortfall in land-won resources. There are extensive reserves of this material, which is similar in quality to land-won aggregates. It is generally more expensive to produce, but this does not make it uneconomic.
61. The LAA states that wharf capacity is 7.3mtpa with 42% of that capacity being used. It does not follow that the remaining identified capacity will be available for importation of marine-dredged aggregates, as capacity will depend on factors such as the availability of stocking space. The wharves also serve a much wider area than Kent. However, there is clear evidence of spare capacity at Kent's wharves and although the precise amount of that spare capacity is uncertain there is scope for greater importation of marine dredged aggregates.
62. The Plan provides flexibility in order to meet the predicted shortfall in supply of land-won sharp sand and gravel. Policy CSM5 of the KMWLP and Policy DM7 of the EPR safeguard mineral resources and opportunities for development of 'windfall' reserves are provided by Policy CSM4 of the KMWLP. The Plan provides for the continued supply of alternative materials alongside indigenous land-won aggregates throughout the Plan period. This provision ensures a steady and adequate supply of aggregates in accordance with the Framework.

Other minerals

63. The KMWLP states, in Policy CSM2, that sites will be identified in the MSP for supplies of brickearth and clay for brick and tile manufacture, and chalk for agriculture and engineering purposes. The MSP does not allocate any site for production of these minerals. The latest Annual Monitoring Report identifies that there is a stock of total permitted reserves of brickearth of almost 25 years. The provision is slightly below the requirements of Policy CSM2 and national policy for reserves of at least 25 years. However, the provision is sufficient to support existing brick and tile manufacturers and there is no need for the MSP to allocate a site for brickearth or clay for brick and tile manufacture. This does not however alter the ongoing need to ensure sufficient reserves of this material are available.
64. Chalk is abundant in Kent but there are no plants dependant on this material in the County. The indicative landbank for chalk for agricultural and engineering purposes is estimated to be 17.6 years as of 2018. This provides an adequate landbank over the Plan period, but it will be necessary to monitor demand for this material.
65. The EPR and MSP as submitted make no explicit change to Policy CSM2 in these respects. However, in order for the Plan as a whole to be justified and effective it is necessary to make amendments to Policy CSM2 of the KMWLP and the supporting text to that policy to remove references to the allocation of sites and to provide for applications for new sites to be dealt with in accordance with the policies of the KMWLP. It is also necessary for soundness to ensure that demand is monitored in relation to the stock of existing permissions. **EPR/MM1** and **EPR/MM2** make changes to the supporting text to Policy CSM2 of the KMWLP to explain that there is a need to ensure

sufficient reserves of brickearth are available and that reserves of chalk and rates of demand will be monitored. **EPR/MM3** is necessary to make amendments to Policy CSM2 part 2 regarding brickearth and clay. **EPR/MM4** is necessary to make amendments to Policy CSM2 part 4 regarding chalk for agriculture and engineering purposes. These MMs are necessary for soundness.

Conclusion on Issue 3

66. For the reasons given above, the MSP would provide adequately for aggregates in accordance with national policy. MMs are necessary to the EPR to ensure clarity and effectiveness in respect of Policy CSM2 of the KMWLP. These changes are necessary for soundness.

Issue 4 – Whether or not the Site Allocations in the Mineral Sites Plan would be consistent with national policy, effective and otherwise sound

Extensions to Stonecastle Farm Quarry, Hadlow/Whetsted

67. The extension is in an area where mineral working would have potential to affect groundwater. A hydrological and hydrogeological appraisal has been undertaken. Both the EA and South East Water are satisfied that mineral extraction can take place provided that this is managed in a way that does not adversely affect groundwater, including in terms of pollution. Wet working is to be used to avoid adverse effects on groundwater.
68. The development management criteria in the MSP require provision of a buffer between extraction and nearby watercourses, demonstration that there would be no adverse impact on hydrology or hydrogeology and other management measures. These include consideration of the two abstraction licences in the vicinity and restoration requirements.
69. The EA has no objection in terms of flood risk although a Flood Risk Assessment would be required with any planning application. The EA similarly has no objection on grounds of potential contamination of ground water or in terms of water supply, subject to the inclusion of development management criteria. Such criteria are included. These are effective and consistent with national policy in terms of managing flood risk and protecting water resources.
70. It is proposed to restore the site to reedbeds and lakes. Although over 27 ha of agricultural land would be lost, this is of grade 3b, which is not best and most versatile land in accordance with the definition in the Framework. As such, use of this land would not be inconsistent with the Framework.
71. The highway authority has no objection in terms of highway safety, but transport criteria are necessary to ensure that the existing quarry access is used and that the volume of traffic is limited by working the quarries in the area sequentially.
72. The site is within the Metropolitan Green Belt. The Framework states that mineral extraction is a form of development that is not inappropriate in Green Belt provided that its openness is preserved, and development does not conflict with the purposes of including land in it. In order to be consistent with

national policy, the development management criteria should include a requirement to examine the proposals against national Green Belt policy. **MSP/MM2** adds a criterion to cover this.

73. The biodiversity criteria do not refer to the need to secure net gains for biodiversity, as required by national policy. **MSP/MM3** adds this requirement to the first criterion and is necessary for soundness.
74. The second criterion under 'Heritage' should be amended to require the impact of proposals upon Listed Buildings and their settings to be considered to ensure consistency with national policy and effectiveness. **MSP/MM4** makes this change and is necessary for soundness.

Moat Farm, Capel, Tonbridge

75. The introductory information relating to the Moat Farm allocation states that the site is within Tonbridge and Malling Borough Council's area, but the site is within the area of Tunbridge Wells Borough Council, the boundary running along the Hammer Dyke. This aspect of the site allocation is not effective. **MSP/MM5** is necessary to correct this information.
76. The site is within the Metropolitan Green Belt. The Framework states that mineral extraction is a form of development that is not inappropriate in Green Belt provided that its openness is preserved, and development does not conflict with the purposes of including land in it. In order to be consistent with national policy, the development management criteria should include a requirement to examine the proposals against national Green Belt policy. **MSP/MM6** adds a criterion to cover this.
77. As the Moat Farm site would use the same access as Stonecastle Farm, the requirement that all quarry traffic is to use the existing access onto Whetsted Road and to only turn left when exiting the site should be applied. This is to ensure that Heavy Goods Vehicles travel directly to and from the strategic road network and not via minor roads which lead through Five Oak Green, which could potentially affect highway safety and amenity. **MSP/MM7** is necessary to add this to the second transport criterion to ensure effectiveness and consistency with national policy.
78. The development management criteria do not include a requirement for a flood risk assessment. This is required in accordance with national policy as the site is within an active floodplain. **MSP/MM8** is necessary to add a criterion in this respect.
79. The site overlies a gravel aquifer and is close to a source protection zone for a public water abstraction borehole. It is necessary to employ wet working in order to avoid any adverse effect on water resources. There are no requirements in this regard within the development management criteria, and **MSP/MM9** is necessary to address this matter and to ensure consistency with national policy and effectiveness.
80. Monitoring of groundwater quality in relation to the adjacent former landfill is subject to control under the Environmental Permitting regime. The Council,

the EA and South East Water have taken this into account in the site allocation process. It is necessary to require local water quality monitoring in association with the allocated site in accordance with a scheme to be agreed with the EA and South East Water to ensure protection of water resources.

MSP/MM10 provides this requirement and is necessary for effectiveness and consistency with national policy.

81. In order to alleviate flood risk it is necessary to provide a 16 metre buffer between areas of extraction and nearby watercourses. The first criterion under 'Water Resources' is not effective in that it does not make it clear that this requirement applies to areas that have previously been subject to extraction as well as future areas of extraction. **MSP/MM11** is necessary to amend the criterion in this respect.
82. The biodiversity criteria do not refer to the need to secure net gains for biodiversity, as required by national policy. **MSP/MM12** adds this requirement to the first criterion and is necessary for soundness.
83. The heritage criterion makes no reference to the need to assess effects on nearby listed buildings and their settings, as required by national policy. In order to ensure the development management criteria are effective and consistent with national policy **MSP/MM13** is necessary to add a criterion in this respect.

Chapel Farm, Lenham (Western Site)

84. It is proposed to restore the site to agriculture using existing soils. The proposed restoration as stated under the Chapel Farm allocation is not entirely clear in that it states that this would be to a "lower level of agriculture". The lower level refers to the finished topography of the site. The SA states that the land is of grade 2 quality which is best and most versatile. It is necessary to ensure that agricultural land quality is maintained, in accordance with national policy, and additional text is necessary to explain this. To ensure the requirements are effective **MSP/MM14** is necessary.
85. The second biodiversity criterion requires consideration of impacts upon nearby Sites of Special Scientific Interest and adjacent Local Wildlife sites. The SA records that priority habitats are adjacent to the site, which have potential for ground nesting birds, great crested newts, reptiles and bats. It will be necessary for the developer to undertake a detailed ecological appraisal which sets out mitigation measures in accordance with national policy. **MSP/MM15** adds a criterion in this respect and is necessary for soundness.
86. The biodiversity criteria do not refer to the need to secure net gains for biodiversity, as required by national policy. **MSP/MM16** is necessary to add a criterion in this respect.

87. The first biodiversity criterion requires maintenance of a 15-metre buffer around an Ancient Woodland which adjoins the site access. It is also necessary to ensure adequate protection for adjacent protected trees. **MSP/MM17** amends that criterion in this respect.
88. The Kent Downs Area of Outstanding Natural Beauty (AONB) is to the north of the A20 and the development would be visible from parts of the AONB. The site should therefore be considered as forming part of the setting of the AONB. The Council has provided cross-sections which demonstrate that the quarry could be visually screened in views from the AONB by provision of bunding and planting. The landscape criterion requires mitigation of visual impacts and demonstration that the setting of the AONB will not be adversely impacted. This does not impose any need to mitigate landscape impacts or to ensure that views into, and out of the AONB are not harmed. In order to ensure the effectiveness of the policy, **MSP/MM18** is necessary. It is not, however, necessary for the policy to prescribe the type of mitigation required, as this would be a matter to be assessed in connection with a planning application.
89. The heritage criterion identifies nearby listed buildings in respect of which consideration of impacts is required. The site is also in an area of archaeological interest. Changes are required to ensure effectiveness and consistency with national policy in terms of consideration of the settings of listed buildings and any necessary mitigation and an archaeological assessment. **MSP/MM19** and **MSP/MM20** make these changes.
90. Public rights of way run through the site and will require diversion and screening measures in order for the policy to be effective. **MSP/MM21** adds a criterion in this respect.
91. The operator currently extracts mineral from a nearby site at Burleigh Farm, Charing. Traffic from the proposed site would use the same road as the existing quarry. To ensure that there is no detrimental effect on highway safety and amenity it is necessary to require the proposed site to be worked sequentially to the existing site. **MSP/MM22** is necessary for effectiveness in this regard.
92. The Council has explained that the site could be worked sequentially to Burleigh Farm well within the Plan period, having regard to the likely period of working at that site. Indeed, the Chapel Farm site would be needed later in the Plan period to provide for a steady and adequate supply of soft sand.

Conclusion on Issue 4

93. For the reasons given above, the Site Allocations in the MSP as submitted are not sound in terms of consistency with national policy and effectiveness. The MMs as set out would make those allocations sound.

Assessment of Legal Compliance

94. My examination of the legal compliance of the EPR and MSP is summarised below.
95. The EPR and the MSP have been prepared in accordance with the Council's Local Development Scheme.
96. Consultation on the EPR and the MSP and the MMs was carried out in compliance with the Council's Statement of Community Involvement.
97. Sustainability Appraisals have been carried for the EPR and the MSP including the MMs, which are adequate.
98. The Appropriate Assessment (AA) of the EPR and MSP (November 2018) and the Addendum to the HRA Screening Report and AA for the EPR and the MSP (May 2019) set out why further AA is not necessary. This is because likely significant effects on Natura 2000 sites have been screened out.
99. The KMWLP includes policies designed to secure that the development and use of land in the mineral and waste planning authority's area contribute to the mitigation of, and adaptation to, climate change. In particular, Policy DM1 requires sustainable design and Policy DM10 requires that development does not exacerbate flood risk. The development management criteria in the MSP include requirements in terms of enhancing biodiversity and mitigating flood risk.
100. The EPR and MSP comply with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.
101. I have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has included my consideration of the development management criteria in the MSP which seek to safeguard living conditions for all groups.

Overall Conclusion and Recommendation

102. The Plans have a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of them as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.
103. The Council has requested that I recommend MMs to make the Plans sound and capable of adoption. I conclude that with the recommended main modifications set out in the Appendices the Early Partial Review of the Kent Minerals and Waste Local Plan 2013-30 and the Kent Minerals and Waste Local Plan Mineral Sites Plan satisfy the requirements of Section 20(5) of the 2004 Act and meet the criteria for soundness in the National Planning Policy Framework.

Nick Palmer

Inspector

This report is accompanied by the following Appendices containing the Main Modifications:

Appendix 1: Main Modifications to Early Partial Review

Appendix 2: Main Modifications to Mineral Sites Plan

1st February 2024

Mineral Planning Department
Kent County Council

Transport Avenue
Brentford
Middlesex
TW8 9HF

☎ 020 8380 9600

✉ email@daygroup.co.uk

🌐 www.daygroup.co.uk

To whom it may concern

Dear Sir/Madam

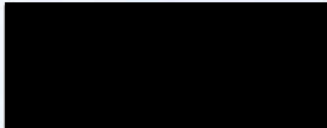
This letter is to support the planning application from Borough Green Sandpits Ltd for their proposed site in Ryarsh for the extraction of building sand.

Currently our building sand usage is in the region of 32,000 tonnes per year ongoing and this has been increasing.

There are a few suppliers of building sand in Kent and includes Ferns at Wrotham, Nepicar Sand at Borough Green and Bretts at Lenham. We believe their reserves may be less than claimed and there is a concern in the marketplace that there is likely to be fewer potential suppliers, particularly for the North Kent market. This could lead to a shortage in building sand, with increased prices due to availability and haulage cost and also the enormous effect on the environment with the excessive journeys to consider.

We therefore support Borough Green Sandpits application, due to the need within the industry and the location of the deposit.

Yours faithfully



Dan Williams
Commercial Manager



**EAST THAMES
AGGREGATES
LIMITED**

Thames House
The Manorway
Rookery Hill
Corringham
Essex
SS17 9LA
Tel: 01375 640500
Fax: 01375 645577
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2nd February 2024

Borough Green Sandpits Ltd
Platt Industrial Estate
St Marys Platt
Borough Green
Kent. TN15 8JL
For The Attention of Mr. Andy Bishop

RE: Proposed Plans to extract Building and other construction sands

East Thames Aggregates Ltd wish to support the planning application from Borough Green Sandpits Ltd for their proposed site in Ryarsh, Kent for the extraction of building sand.

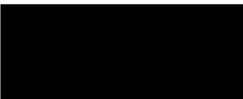
East Thames Aggregates currently source building sand in the region of 50,000 tonnes per annum ongoing and this could increase.

We transport this sand throughout Kent, Essex and the Greater London area, and must come into Kent and Surrey to collect this sand, as Essex now has NO natural source of proper brick-laying pit sand.

There are a few suppliers of building SAND in Kent and Surrey, which include Ferns at Wrotham, Nepicar Sand at Borough Green, Bretts at Lenham, and Westerham Pits. We believe their reserves may be less than claimed and have been restricting our annual take for this reason. There is a concern in the marketplace that there is likely to be fewer potential suppliers, particularly for the North Kent market. This could lead to a shortage in building sand, with increased prices due to availability and additional haulage costs. This would have an enormous impact on the environment contributing to higher CO2 levels associated with the additional road haulage miles.

We therefore support Borough Green Sandpits application, due to the need within the construction industry and the geographical location of the sand deposit.

Yours faithfully



Brian Tulip
Commercial Manager
East Thames Aggregates Limited





Directors: Mr. J A Rogers. Mrs. J A Rogers, Mrs. L A Clark
Registered Office: Thames House, The Manorway, Rooker Hill, Corringham, Essex, SS17 9LA. Company Registration No. 2492633.
VAT registration No. 546 1946 25

Mineral Planning

Kent County Council

To whom it may concern

This letter is to support the planning application from Borough Green Sandpits Ltd for their proposed site in Ryarsh, Kent for the extraction of building sand.

Currently our building sand usage is in the region of 75k tonnes per year ongoing and this has been increasing.

There are a few suppliers of building SAND in Kent and includes Ferns at Wrotham, Nepicar Sand at Borough Green and Bretts at Lenham. This could lead to a gap in supply of building sand, with increased prices due to availability, haulage cost and the enormous impact on the environment with the excessive journeys to consider. Building sand supply is pivotal to the local and wider infrastructure and housing developments within Kent and surrounding counties.

We therefore support Borough Green Sandpits application, due to the need within the industry and the location of the deposit minimizes the amount of road miles.

Yours faithfully,

Ashley Hayward

GRS Building Products Ltd

Mineral Planning
Kent County Council

To whom it may concern

This letter is to support the planning application from Borough Green Sandpits Ltd for their proposed site in Ryarsh, Kent for the extraction of building sand.

Currently our building sand usage is in the region of 30,000 tonnes per year ongoing and this has been increasing.

There are a few suppliers of building SAND in Kent and includes Ferns at Wrotham, Nepicar Sand at Borough Green and Bretts at Lenham. We believe their reserves may be less than claimed and there is a concern in the market place that there is likely to be fewer potential suppliers, particularly for the North Kent market. This could lead to a shortage in building sand, with increased prices due to availability and haulage cost and also the enormous effect on the environment with the excessive journeys to consider.

We therefore support Borough Green Sandpits application, due to the need within the industry and the location of the deposit.

Yours faithfully

Mark Beech-Griffiths

Category Manager Tarmac Building Components/ Packaging Category Manager UK/Ireland

Tarmac Building Products Limited



Mineral Planning

Kent County Council

January 2024

To whom it may concern

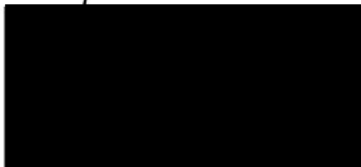
This letter is to support the planning application from Borough Green Sandpits Ltd for their proposed site in Ryarsh, Kent for the extraction of building sand.

Currently our building sand usage is in the region of 160000 tonnes per year ongoing and this has been increasing.

There are a few suppliers of building SAND in Kent and includes Ferns at Wrotham, Nepicar Sand at Borough Green and Bretts at Lenham. We believe their reserves may be less than claimed and there is a concern in the market place that there is likely to be fewer potential suppliers, particularly for the North Kent market. This could lead to a shortage in building sand, with increased prices due to availability and haulage cost and also the enormous effect on the environment with the excessive journeys to consider.

We therefore support Borough Green Sandpits application, due to the need within the industry and the location of the deposit.

Yours faithfully



MD

Business & Registered Office

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