

# Kent Mineral Sites Plan

## Early Partial Review of the Kent Minerals and Waste Local Plan 2013-30 (KMWLP)



### Town and Country Planning (Local Planning) (England) Regulations 2012, Regulation 19

#### Proposed Modifications

### Guidance notes for making a representation

#### Introduction

In October 2019, the Planning Inspector held an Examination in Public (EiP) on the Submission versions of the Kent Mineral Sites Plan and the Early Partial Review to the KMWLP. During the course of the EiP, a number of main modifications to the Plans were discussed with the Inspector. These modifications seek to address potential soundness and legal compliance issues. The County Council is also proposing a number of minor changes. Whilst these additional (minor) modifications do not affect overall soundness and legal compliance, the County Council is keen to improve the clarity of the Plans.

The County Council is now inviting comments on the proposed main modifications and the accompanying Sustainability Appraisals. Written representations on the Plan received within the eight week public consultation period will be sent to the Planning Inspector for consideration alongside the modified Plans. Comments should be made on the **Representation Form**.

**Please ensure that your comments relate only to the proposed modifications and not elements of the Plan which existed prior to submission.**

The Planning and Compulsory Purchase Act 2004<sup>2</sup> (as amended) (PCPA) states that the purpose of the examination is to consider whether the Plans complied with the legal requirements, including the 'Duty to Co-operate', and is sound. This document explains these requirements in further detail.

#### Legal Compliance and Duty to Co-operate

The Inspector will first check that the Plans meet the legal requirements associated with plan making under s20 (5) (a), and the Duty to Co-operate under s20 (5) (c) of the PCPA, before moving on to the tests of soundness.

Before making a representation on legal compliance, you should consider the legal requirements which include the following:

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<sup>1</sup> View online: <http://www.legislation.gov.uk/ukxi/2012/767/contents/made>

<sup>2</sup> View online at: <http://www.legislation.gov.uk/ukpga/2004/5/contents>

- A description of the Plans and key stages in their preparation should be included in the Kent County Council (KCC) Local Development Scheme (LDS). If the Plans are not in the current LDS they should not have been published for representations. Publication of the Plans should also be in accordance with the LDS timetable. The LDS is available on the County Council website<sup>3</sup> at the main KCC offices in Invicta House, Maidstone ME14 1XX and Sessions House, Maidstone ME14 1XQ and at the main libraries and Gateways. **See below.**
- The process of consultation on the Plans should be in general accordance with KCC's Statement of Community Involvement (SCI). The SCI sets out the strategy for involving the community in the preparation and revision of Plans and is available on the County Council website<sup>4</sup>.
- Preparation of the Plans should comply with the Regulations. On publication, KCC must publish the documents prescribed in the Regulations, and make them available at its principal offices and on its website. The Local Planning Authority must also notify the Local Plan bodies (as set out in the Regulations) and any persons who have requested to be notified.
- KCC is required to provide a Sustainability Appraisal (SA) Report when it publishes a Plan which should be consistent with the Environmental Assessment of Plans and Programmes Regulations 2004. SA is a tool for appraising policies to ensure they reflect social, environmental, and economic factors. The SA report should identify the process by which the SA has been carried out, and the baseline information used to inform the process and the outcomes of that process. The SA and related Non-Technical Summary is available on the County Council's website and consultation portal<sup>5</sup>, and at the offices and libraries listed below.
- The Plans should be in general conformity with the adopted Kent Minerals and Waste Local Plan 2013-30 (KMWLP), which is the Spatial Development Strategy for minerals and waste development in Kent, along with adopted District and Borough Local Plans.

You should consider the following before making a representation on compliance with the Duty to Co-operate:

- Any plan submitted will be examined for compliance with the Duty to Cooperate. Local Planning Authorities are expected to provide evidence of how they have complied with any requirements arising from the Duty.
- The PCPA 2004 establishes that non-compliance with the Duty to Co-operate cannot be rectified after the submission of the Plan and so if the Duty has not been complied with, the Inspector has no choice but to recommend non-adoption of the Plan.

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<sup>3</sup> <https://www.kent.gov.uk/about-the-council/strategies-and-policies/environment-waste-and-planning-policies/planning-policies/minerals-and-waste-planning-policy>

<sup>4</sup> View online at: <http://consult.kent.gov.uk/file/3203222>

<sup>5</sup>View online: [https://consult.kent.gov.uk/portal/second\\_call\\_for\\_sites\\_2016/document\\_library](https://consult.kent.gov.uk/portal/second_call_for_sites_2016/document_library)

## **Soundness**

Soundness is explained in paragraph 35 of the National Planning Policy Framework 2019 (NPPF)<sup>6</sup>. The Inspector must be satisfied that the Plans are 'positively prepared', 'justified', 'effective' and 'consistent with national policy' as explained below:

**Positively Prepared:** This means that the Plans should be prepared based on a strategy which, as a minimum, seeks to meet objectively assessed development and infrastructure requirements, and is informed by agreements with other authorities, such that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development.

**Justified:** The Plans should be the most appropriate strategy when considered against reasonable alternatives, based on proportionate evidence.

**Effective:** The Plans should be deliverable over their period and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground.

**Consistent with national policy:** The Plans should enable the delivery of sustainable development in accordance with the policies in the NPPF.

If you think the content of a Plan is not sound because it does not include a policy where it should do, you should go through the following steps before making representations:

- a. Is the issue with which you are concerned already covered specifically by national planning policy? If so, does it need to be included in this Plan.
- b. Is what you are concerned with covered by any other policies in any other Plan including the adopted Kent Minerals and Waste Local Plan 2013-30?
- c. If the policy is not covered elsewhere, in what way is the Plan unsound without the policy?
- d. If the Plan is unsound without the policy, what should the policy say?

## **General Advice**

If you wish to make a representation seeking a modification to the Plans you should make it clear in what way the Plan is not sound having regard to the legal compliance, Duty to Cooperate and the four soundness requirements set out above. You should try to support your representation with evidence showing why the Plan should be modified. It will be helpful if you also say precisely how you think the Plan should be modified. Representations should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further submissions based on the original representation made at publication. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.

Where there are groups who share a common view on how they wish to see a Plan modified, it would be very helpful for that group to send a single representation which

represents the view, rather than for a large number of individuals to send in separate representations which repeat the same points. In such cases the group should indicate how many people it is representing and how the representation has been authorised.

### **Representations deadline**

Representations should be returned by the end of the eight week consultation period on **14 January 2020**.

Representations may be made by completing the representations form on the online version of the document at:

[https://kent.objective.co.uk/portal/second\\_call\\_for\\_sites\\_2016/msp\\_proposed\\_modifications](https://kent.objective.co.uk/portal/second_call_for_sites_2016/msp_proposed_modifications)

Or, by completing the representation form (electronic and hard copies are available) and submitting the form by:

- email to [mwlp@kent.gov.uk](mailto:mwlp@kent.gov.uk), or
- post to: Minerals and Waste Planning Policy, First Floor, Invicta House, Maidstone Kent ME14 1XX

If returning the representations form electronically, you may state your name rather than signing the form.

If you have any queries about the process of submitting representations, please contact the Minerals and Waste Policy team by email ([mwlp@kent.gov.uk](mailto:mwlp@kent.gov.uk)) or telephone (03000 422370).

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## **Viewing the Plans and supporting information**

The Plans and supporting information are available for inspection via the County Council's website:

[https://consult.kent.gov.uk/portal/second\\_call\\_for\\_sites\\_2016/document\\_library](https://consult.kent.gov.uk/portal/second_call_for_sites_2016/document_library)

Copies are also available to view at the following locations:

### **Kent County Council Libraries**

Broadstairs Library, Broadway, Broadstairs, CT10 2BS  
Canterbury Library 18 High Street, Canterbury CT2 2RA  
Dartford Library, Central Park, Market Street, Dartford DA1 1EU  
Dover Library, Dover Discovery Centre, Market Square, Dover CT16 1PH  
Faversham Library, Newton Road, Faversham, ME13 8DY  
Folkestone Library, 2 Grace Hill, Folkestone, CT20 1HD  
Gravesend Library, Windmill Street, Gravesend, DA12 1BE  
Hadlow Library, School Lane, Hadlow, Tonbridge, Kent, TN11 0EH  
Lenham Library, 11 The Square, Lenham, ME17 2PQ  
Lydd Library Skinner Road, Lydd, TN29 9HN  
Maidstone Library, James Whatman Way, Maidstone ME14 1LQ  
Ramsgate Library, Guildford Lawn, Ramsgate, CT11 9AY  
Sevenoaks Library, Buckhurst Lane, Sevenoaks TN13 1LQ  
Sittingbourne Library, Central Avenue, Sittingbourne, ME10 4AH  
Tonbridge Library, 1 Avebury Avenue, Tonbridge TN9 1TG  
Tunbridge Wells Library, Mount Pleasant Road, Tunbridge Wells TN1 1NS  
West Malling Library, 22 -26 High Street, West Malling ME19 6QR

### **Gateways**

Ashford Gateway Plus, Church Road, Ashford TN23 1AS  
Dover Gateway, 69-71 Castle Street, Dover, CT16 1PD  
Eden Centre Gateway, Four Elms Road, Edenbridge TN8 6BY  
Gravesham Gateway, Civic Centre, Windmill Street DA12 1NL  
Maidstone Link, King Street, Maidstone ME15 6JQ  
Sheppey Gateway, 38-42 High Street, Sheerness TN30 6HP  
Tenterden Gateway, 2 Manor Row, High Street, Tenterden TN30 6HP  
Swanley Link, London Road, Swanley BR8 7AE  
Thanet Gateway Plus, Cecil Street, Margate CT9 1RE  
Tonbridge Gateway, Tonbridge Castle, Castle Street, Tonbridge TN9 1BG  
Tunbridge Wells Gateway, 8 Grosvenor Road, Tunbridge Wells TN1 2AB

### **Kent County Council Offices**

Sessions House, County Hall, Maidstone ME14 1XQ  
Mineral and Waste Local Plan Team, Invicta House, Maidstone ME14 1XX