

Pre-Submission Draft of the Kent Minerals and Waste Local Plan 2024-39

Response from CPRE Kent

Introduction

We are CPRE, the countryside charity. Formed in 1926, CPRE is a registered charity and one of the longest established and most respected environmental groups in England, with over 40,000 members and supporters living in our cities, towns, villages and the countryside. CPRE Kent is the largest of the CPRE County branches.

Our vision is of a beautiful and thriving countryside that enriches all our lives, and our mission is to promote, enhance and protect that countryside.

We believe that the planning system is a toolbox for achieving better – for people, nature and the economy – while supporting the delivery of more badly-needed homes to end the housing crisis.

Overall, it is our position that local planning authorities should seek to ensure that the impact of development on the countryside, both directly and indirectly, is kept to a minimum and that development is sustainable in accordance with national planning policy.

Our detailed comments on the Pre-Submission Draft of the Kent Minerals and Waste Local Plan are as follows:

Policy/paragraph	CPRE Kent comments
<p>Policy CSM 2: Supply of Land-won Minerals in Kent</p>	<p>The draft plan repeatedly mentions ragstone as a primary source of crushed hard rock for construction, despite the availability of other sources and types. Specifically, the plan recognises that other crushed rock resources exist in Kent, such as the Carboniferous Limestone deposits to be found within East Kent, yet these are seemingly being dismissed on the grounds that they may be more expensive to quarry.</p> <p>Ragstone, crucial for heritage restoration, is in decline, with only a minimal portion of it allocated for restoration purposes. The plan needs to recognise this disparity and address the necessity to limit the non-essential use of Kentish Ragstone. Furthermore, the draft plan asserts that stone from quarries is sustainable, but Kentish ragstone is non-renewable and finite.</p> <p>As it currently stands, only Hermitage Quarry has been identified as an existing consented reserve with the ability to produce high-quality cut stone from the full sequence of ragstone beds in the Hythe Formation, to provide building stone for building conservation uses. However, only a tiny percentage of the ragstone extracted from the Hermitage Quarry is currently used for restoration. The vast majority is instead used as a general-purpose aggregate for road building and similar. The plan should acknowledge this and the need to curb non-essential demand for Kentish Ragstone.</p> <p>The draft plan therefore needs to better recognise and appropriately safeguard the unique and finite resource that Kent Ragstone is. If alternative sites for general crushed rock other than Kentish ragstone are available, their use should be prioritised before allowing the high-quality cut stone at Hermitage Quarry to be extracted.</p>

	<p>What we do not want to see is the small percentage of ragstone used for heritage purposes being used as smokescreen to justify the further expansion of the Hermitage Quarry site into ancient woodland at Oaken Wood.</p> <p>For completeness, we have objected to the potential expansion of the Hermitage Quarry allocation within the Regulation 18 version of the Kent mineral site plan on the following grounds:</p> <ol style="list-style-type: none"> 1. lack of alternatives given consideration before nominating Hermitage Quarry 2. adverse impact on ancient woodland and loss of Priority Habitat deciduous woodland 3. adverse impact on LWS and designed SSSI 4. loss of Best and Most Versatile Agricultural Land 5. adverse impact on PRow 6. adverse impact on a designated Landscape Character Area and setting of the AONB 7. adverse impact on nearby Listed Buildings 8. adverse impact on designated Air Quality Management Areas and residential amenity <p>We also raised concerns as to the lack of consideration of alternative sites and options, including importation of aggregate from outside of Kent County.</p> <p>Soundness Reason: This is to ensure the plan is positively prepared</p>
<p>Policy CSM9/Paragraphs 5.9.1 and 5.9.2</p>	<p>In line with our above comments relating to Policy CSM2, we are concerned that the preamble text to this policy implies that ragstone alone constitutes “Building Stone” as referred to within the policy text. It is our view that additional text should be added to clarify Ragstone is one of several hardstones that could constitute “Building Stone” in the context of Policy CSM2.</p> <p>We are also very concerned to see that it is now proposed to delete the previously proposed criteria 3 to ensure any extraction site be restored to “<i>a high-quality standard and appropriate after use that supports the local landscape character</i>”. We cannot see how or why this is justified, particularly with the now enhanced duty with regards to National Landscapes (AONBs – see our comments below with regard to DM2). It is our strong view that this criterion should be re-instated within the submission draft of the plan.</p> <p>Soundness Reason: This is to ensure the plan is positively prepared</p>
<p>Policy CSM 10</p>	<p>It is CPRE’s firm view that any new permission to allow the production of oil, gas and unconventional hydrocarbons will exacerbate climate change. There is a climate emergency which is a priority consideration.</p> <p>It therefore remains our view that Policy CSM 10, and the plan in general, should be reworded to better reflect the government guidance which no longer supports fracking in the UK energy market.</p>

	<p>Soundness Reason: This is to ensure the plan is positively prepared and consistent with national planning guidance.</p>
<p>Policy CSW 17</p>	<p>We welcome the amendments made to the policy text in recognition of our previously raised comments seeking confirmation that the Dungeness site is no longer being considered for a geological disposal facility.</p> <p>Our overriding concern however remains that Policy CSW 17 permits development of a low-level radioactive landfill anywhere within the Nuclear Estate, albeit subject to planning permission. As previously stated, the soils on the site are highly permeable. Climate change will increase tidal levels. Consequently, ground water levels will be much higher than was contemplated when these two stations were designed, and the site will be subject to more severe storm events than it has experienced in the past.</p> <p>The Dungeness, Romney Marsh and Rye Bay Ramsar site, Dungeness Special Area of Conservation (SAC), and Dungeness, Romney Marsh and Rye Bay Special Protection Area (SPA), which are protected by the Conservation of Habitats and Species Regulations 2017 (as amended).</p> <p>We recognise that an Appropriate Assessment has been carried out to establish how the disposal of low-level radioactive waste at the site might impact on the protected habitat and species designations; and has concluded that there will be no adverse effect. It is however notable that this was challenged by Natural England.</p> <p>It therefore remains our over-riding view that low-level radioactive landfill anywhere within the Nuclear Estate should be resisted. If, however, it is to be permitted, more detail is required on this at this plan making stage, including potential disposal locations within the estate. This should not be delegated to the planning application stage.</p> <p>Soundness Reason: This is to ensure the plan is positively prepared</p>
<p>DM2/throughout the plan.</p>	<p>Throughout the plan, there are mentions of Areas of Outstanding Natural Beauty (AONBs), particularly within policy DM2. It is noted that as of November 2023, these areas have been rebranded as National Landscapes. Hence, it is expected that this change should be reflected in the policies and text.</p> <p>With the recent amendment to the Levelling Up and Regeneration Act (2023), the obligation imposed on public bodies and statutory undertakers has transitioned to an active duty. Now, relevant authorities are required to actively pursue the conservation and enhancement of the natural beauty of these areas. However, it remains unclear how the plan intends to fulfil this new duty.</p> <p>Soundness Reason: This is to ensure the plan is positively prepared and consistent with national legislation.</p>
<p>DM3/throughout the plan.</p>	<p>It is extremely disappointing that policy DM3 only refers to the now mandatory minimum requirement of sites delivering 10% biodiversity net gain (BNG). It is our view that this plan should be supporting the KCC led (via the Kent Nature Partnership) promotion of a 20% BNG target across Kent. Notwithstanding the recent changes to</p>

	<p>Planning Policy Guidance, it remains that a higher than 10% BNG requirement can be imposed where local evidence justifies such an approach.</p> <p>KCC's own evidence provides such justification within the KNP topic paper "<i>Justification for a Biodiversity Net Gain target of 20% in Kent</i>¹". It is also the case that KCC (with funding support from Natural England) has already commissioned this strategic viability assessment of BNG in Kent² to assist the county's planning authorities to understand whether targeting a higher BNG than the statutory minimum of 10% is potentially viable in the county.</p> <p>LPAs across Kent have relied upon this evidence in seeking to justify higher than mandatory minimum BNG requirements. This approach now needs to be strongly supported at the County level if it is to survive the recent updates to the Planning Policy Guidance</p> <p>Soundness Reason: This is to ensure the plan is positively prepared and in general conformity with adopted District and Borough Local Plans.</p>
<p>Policy DM 19</p>	<p>In line with our comments above we consider this policy should be seeking a minimum of 20% BNG as KCC's own evidence justifies such an approach. We are also concerned that only a five-year "aftercare" period is being proposed. This is directly at odds with the now mandatory BNG requirements under Paragraph 9 of Schedule 7A of the Town and Country Planning Act 1990. This states that the maintenance of a significant onsite habitat enhancement must be secured by either a planning condition, planning obligation or conservation covenant for at least 30 years after the completion of the development.</p> <p>The policy text should be amended to reflect this statutory requirement.</p> <p>Soundness Reason: This is to ensure the plan is positively prepared and consistent with national legislation.</p>

¹ <https://kentnature.org.uk/wp-content/uploads/2022/07/Justification-for-biodiversity-net-gain-in-Kent-Sept-2020.pdf>

² <https://kentnature.org.uk/wp-content/uploads/2022/07/Viability-Assessment-of-Biodiversity-Net-Gain-in-Kent-June-2022.pdf>

Representation Form

Section A - Personal Information

Q1. Please tell us in what capacity you are completing this form:

Please select one option.

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | As an individual |
| <input type="checkbox"/> | On behalf of someone else |
| <input checked="" type="checkbox"/> | On behalf of an organisation / affiliation |

Q1a. Please tell us your name or the person you are responding on behalf of:

Please provide a first and last name. Please write in below.

Richard Thompson obo CPRE Kent – The Countryside Charity

Q1b. Please tell us the name of your organisation / affiliation (if relevant):

Please write in below.

CPRE Kent – The Countryside Charity

Q1c. Please provide details of who should be contacted regarding this response:

Please include an address, phone number and email address in the box below.

CPRE Kent - The Countryside Charity

CPRE Kent, Queen's Head House, Ashford Road, Charing, Kent, TN27 0AD

Email: planning@cprekent.org.uk

Phone: 01233 714540

Q5. Do you consider it necessary to attend and give evidence at any hearing sessions during the examination? Select one option.

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | Yes, I wish to speak to the Inspector at any hearing sessions |
| <input type="checkbox"/> | No, I wish to communicate through written representations |
| <input checked="" type="checkbox"/> | Don't know |

Q5a. If you wish to participate at the hearing sessions during the examination, please outline why you consider this to be necessary in the box below:

CPRE Kent will review the Councils response to our comments and others within the submission consultation statement. Depending upon this, we may wish to make further representations as part of the examination process.

Thank you for taking the time to complete this form.

Full responses will be submitted to the Planning Inspector appointed by the Secretary of State for Independent Examination. A summary of the responses will be made publicly available on our website with all personal data removed. Please read our privacy statement below for further details.

Closing date for responses: midnight on Thursday 29 February 2024

Minerals and Waste Local Plan privacy statement

We keep this privacy notice under regular review and was last updated on 4 January 2024.

Kent County Council (KCC) respects your privacy and is committed to protecting your personal data. This privacy notice will inform you as to how we look after your personal data and tell you about your privacy rights and how the law protects you.

Who we are

KCC collects, uses and is responsible for certain personal information about you. When we do so we are regulated under the General Data Protection Regulation (GDPR) which applies across the European Union (including in the United Kingdom) and the Data Protection Act 2018. We are responsible as ‘controller’ of that personal information. The Planning Applications Group, as the minerals and waste planning authority for Kent, has a statutory duty to prepare a plan for waste management capacity and mineral provision in accordance with the Planning and Compulsory Purchase Act 2004 (‘the Act’) and the Town and Country Planning (Local Planning) (England) Regulation 2012 (‘the Regulations’). Our Data Protection Officer is Benjamin Watts.

The personal information we collect and use

Information collected by us

In the course of providing a minerals and waste planning service, we collect the following personal information when you provide it to us:

- name
- address
- signature
- email
- telephone number
- full address of the development
- landowner and land occupier information
- any other information that you may provide to us within your correspondence.

We also collect ‘special category data’ (personal data which is more sensitive and is treated with extra care and protection, for example race and ethnicity, religious or philosophical beliefs, sex life, sexual orientation, political opinions, trade union membership, information about health, and genetic and biometric data) if it is provided to us.

We also obtain personal information, including special category data if it is provided, from other sources as follows:

- name, address, signature, email, telephone number, full address of the development and comments submitted via agents and interested parties via KCC's consultation portal.
- name, address, email, telephone number shared with us from other third parties such as from the district councils, other enforcement agencies, other KCC departments, cabinet members, county councillors, central government.

How we use your personal information

We use your personal information to comply with our statutory duties and any legal obligations and where it is necessary to perform a public task in the public interest as the mineral and waste planning authority.

We store and use personal information submitted to us in relation to the Minerals and Waste Plan making processes in order to:

- make decisions about the use of land in the public interest
- to develop and review the Minerals and Waste Local Plans (MWLP)
- to produce and maintain a Statement of Community Involvement
- to undertake consultation events (such as in relation to a call for sites, site plans)
- to produce a Local Aggregate Assessment (LAA) and Annual Monitoring Review (AMR).

We have a statutory obligation to provide these services in accordance with planning legislation including:

- Town and Country Planning Act 1990
- Planning and Compulsory Purchase Act 2004
- Town and Country Planning (Local Development) Regulations 2004 as amended
- The Town and Country Planning Act (Local Planning) (England) Regulations 2012
- Planning Act 2004
- Town and Country Planning Development Management Procedure England Order 2015
- Town and Country Planning (Environmental Impact Assessment) Regulations 2017
- Local Government Act 1972
- Local Government Act 1974
- Local Government (Access to Information) Act 1985

- any Regulations made pursuant to the above legislation.

Reasons we collect and use your personal information

We rely on public task or legal obligation as the lawful basis on which we collect and use your personal data.

We rely on substantial public interest as the lawful basis on which we collect and use your special categories of personal data.

We rely on the statutory or government purposes condition in the Data Protection Act 2018 to process your special category data.

We take the following appropriate safeguards in respect of your special category data when relying on the conditions above:

- We have a Special Category and Criminal Records Appropriate Policy Document in place when using your special category data. This policy is retained throughout the time we use your data and for 6 months after we cease to use it.
- We have a retention schedule which explains how long data is retained.
- We maintain a record of our processing in our 'Record of Processing Activities' and record in it any reasons for deviating from the periods in our retention schedule.

The provision of contact details and your correspondence or representation (including where you choose to provide special category data) enables us to provide a minerals and waste plan making service.

Anyone can make a representation in relation to a current consultation event (for example, in relation to the MWLP work and review of the Statement of Community Involvement), but comments must be made in writing and should not be anonymous.

Representations can be submitted via the consultation portal or directly to the MWLP Team. Any views or comments received as part of a MWLP consultation event will be taken into account and [at Regulation 19 stage] will be sent in unredacted form to the Secretary of State and the Planning Inspectorate as part of the plan making process.

As we have a statutory basis for collecting your personal data, if you do not provide your name and contact details, we may not be able to acknowledge your response or communicate with you and this may affect the service that we provide.

If you are submitting supporting information, which you would like to be treated confidentially or is special category data, please let us know as soon as you can, ideally in advance of submitting your representation or correspondence. You can do this by contacting the MWLP Team.

How long your personal information will be kept

All information submitted within a response to a consultation event (such as the MWLP, Statement of Community Involvement) including names, addresses, signatures and contact details, will be retained by the council for 6 years after the end of the relevant plan making cycle.

All information submitted within a response to the Aggregate Assessment Survey and Annual Monitoring Review including names, addresses, signatures and contact details, will be retained by the council on a permanent basis.

Personal information including your name and contact details which is retained on our database during the plan making process for the purpose of keeping you informed about the plan making process will be deleted 6 years after the end of the relevant plan making cycle.

Personal information including your name and contact details retained on our consultation database will be retained for the purpose of keeping you informed unless you opt out of this via your registration within the consultation database.

Who we share your personal information with

All information (including personal data and special category data for which we have a legal basis to process) stored on our databases and in our case files may be shared with a contracted external provider who is carrying out planning or IT work on behalf of the planning authority.

All information submitted in response to a MWLP consultation event will be shared in redacted form on our website and on our consultation database. We usually publish the full text of consultation responses you provide on our website. We will redact your address, signature and email address and any special category data from your comment however, you should be careful not to provide any personal data or special category data (previously called sensitive personal data) about yourself in these comments which is capable of identifying you or anyone else. If you do so, you must be aware that these may be seen by the public at large and may be shared as detailed in this privacy notice.

All information submitted in response to a MWLP consultation [at Regulation 19 stage] (including personal data and special category data for which we have a legal basis to process) will be shared with the planning inspector appointed by the Secretary of State to conduct the minerals and waste plan examination, and during examination in public, will be subject to the current Planning Inspectorate privacy guidance.

All information submitted in response to a Statement of Community Involvement consultation will be shared only in redacted form.

All information submitted in response to a local aggregates assessment request will only be shared on our website in an aggregated format and this will not include personal data.

Where relevant, information may be shared in the event of a request made under the Freedom of Information Act 2000 or Environmental Information Regulations 2004. In such cases personal data will be redacted and any information that has been provided on a confidential basis will be withheld, if an exemption under the relevant regulations apply.

We will share personal information (including unredacted information if required) with law enforcement or other authorities if required by applicable law or in connection with legal proceedings.

In the event of a legal challenge, unredacted correspondence (including personal data and special category data for which we have a legal basis to process) will be sent to the courts and may be disclosed to third parties.

Where relevant, unredacted correspondence (including personal data and special category data for which we have a legal basis to process) received will be sent to the Local Government and Social Care Ombudsman regarding alleged complaints about maladministration by a public authority.

We will share personal information with our legal and professional advisers in the event of a dispute, complaint or claim. We rely on Article 9(2)(f) where the processing of special category data is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity.

We will sometimes need to share the unredacted information we have with other departments in KCC and other external statutory bodies.

Your rights

Under the GDPR you have a number of rights which you can access free of charge which allow you to:

- know what we are doing with your information and why we are doing it
- ask to see what information we hold about you
- ask us to correct any mistakes in the information we hold about you
- object to direct marketing
- make a complaint to the Information Commissioner's Office.

Depending on our reason for using your information you may also be entitled to:

- object to how we are using your information

- ask us to delete information we hold about you
- have your information transferred electronically to yourself or to another organisation
- object to decisions being made that significantly affect you
- stop us using your information in certain ways.

We will always seek to comply with your request however we may be required to hold or use your information to comply with legal duties. Please note: your request may delay or prevent us from delivering a service to you.

For further information about your rights, including the circumstances in which they apply, see the guidance from the [UK Information Commissioner's Office](#) on individuals' rights under GDPR.

If you would like to exercise a right, please contact the Information Resilience and Transparency Team at data.protection@kent.gov.uk.

Keeping your personal information secure

We have appropriate security measures in place to prevent personal information from being accidentally lost or used or accessed in an unauthorised way. We limit access to your personal information to those who have a genuine need to know it. Those processing your information will do so only in an authorised manner and are subject to a duty of confidentiality.

We also have procedures in place to deal with any suspected data security breach. We will notify you and any applicable regulator of a suspected data security breach where we are legally required to do so.

Contact

Please contact the Information Resilience and Transparency Team at data.protection@kent.gov.uk to exercise any of your rights, or if you have a complaint about why your information has been collected, how it has been used or how long we have kept it for.

You can contact our Data Protection Officer, Benjamin Watts, at dpo@kent.gov.uk, or write to: Data Protection Officer, Sessions House, Maidstone, Kent ME14 1XQ.

GDPR also gives you right to lodge a complaint with the [Information Commissioner](#) who may be contacted on 03031 231113.