

Date: 03 December 2024
Our ref: 491130 - ADDENDUM



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BY EMAIL ONLY

Dear Sharon Thompson,

Planning consultation: Proposed Main Modifications for the Kent Minerals and Waste Local Plan 2024 - 2039

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Thank you for meeting with us on Monday 02 December 2024, to discuss our response to the proposed Main Modifications (our reference: 491130, dated 27 November 2024). We welcomed the clarity provided during this discussion and as agreed, please accept this letter as an addendum and update to our response, to address what was discussed in the meeting.

Policy DM3 – MM 55

In response to Main Modification number 52, Natural England recommended the wording revert back to its Regulation 19 form (with the exception of the reference to “*major*” development), which was previously agreed under the Statement of Common Ground signed between Kent County Council and Natural England (April 2024). However, upon further discussion with the Council yesterday, and additional reflection on the biodiversity net gain planning practice guidance (PPG), Natural England are in agreement that the submission of a Biodiversity Gain Plan is only required following granting of planning permission, and is not mandatory at planning application stage. As such, we withdraw our previous comments regarding this wording under Policy DM3, and advise that it is Sound and Legally compliant, as presented under the Main Modifications.

Furthermore, as discussed in the meeting, Natural England remain concerned about the use of the word “*major*”, in reference to development that will be expected to deliver at least a 10% net gain in biodiversity value. Whilst we acknowledge that all minerals and waste development is likely to be major development by definition, and therefore this Policy should in theory capture all development that is subject to the Plan, we would be much reassured if the use of “*major*” was more clearly defined in this context. In order to avoid any unnecessary complications or delays for the Plan being adopted, we are satisfied that this can be addressed via a Glossary update, to define “*major*” development in this instance, as was agreed during the meeting. Provided this Glossary addition defines major development as all development subject to the Kent Minerals and Waste Local Plan (with clarity provided for the few specific exemptions for certain types of development, as detailed by

the PPG), then Natural England advise that we have no further concerns with Policy DM3. With the addition of a clear glossary entry, we would be happy that the Policy meets the test of soundness.

Policy DM1

Natural England highlighted in our cover letter (for response reference 491130) that we had remaining concerns regarding Policy DM1, which were not addressed by the proposed Main Modifications. These concerns relate to the use of the word “*minimise*”, in the context of potential losses of Best and Most Versatile Agricultural Land (BMVAL), as opposed to avoiding in the first instance. Whilst we continue to advise of this concern, we acknowledge that the current Policy wording captures the relevant parts of Paragraph 180 of the National Planning Policy Framework, in that it recognises BMVAL and leaves room for interpretation to allow for areas of poorer quality land to be developed before those of a higher quality. We are further comforted that the inclusion of Policy DM19 will help to support site restoration back to agriculture, if the site consists of BMVAL.

As such, whilst Natural England would support clearer wording being provided in relation to BMVAL, having revisited our previous advice, we are satisfied that Policy DM1 is sound and legally compliant in its current form.

We hope this addendum helps to address and clarify these matters. We would be happy to comment further should the need arise, but if in the meantime you have any queries, please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely,

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Natural England