



Statement of Common Ground Between Kent County Council and Natural England concerning the Kent Minerals and Waste Local Plan 2024-39

April 2024

1.0 Introduction

- 1.1 This document represents a **Statement of Common Ground between Natural England (NE) and Kent County Council (KCC)** and concerns policies in the emerging Kent Minerals and Waste Local Plan 2024-39 relating to protection of landscape, biodiversity and geodiversity.
- 1.2 KCC is the Minerals and Waste Planning Authority for Kent and so has responsibility for planning for the future management of waste and supply of minerals in its area by preparing, implementing and updating related planning policy set out in the Kent Minerals and Waste Local Plan.
- 1.3 Natural England is a non-departmental public body. Its statutory purpose is to ensure that the natural environment in England is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.
- 1.4 KCC adopted the current Kent Minerals and Waste Local Plan in 2016 (plan period to 2030) and subsequently undertook an 'Early Partial Review' which resulted in changes to policies relating to waste management capacity provision and minerals safeguarding being adopted in 2020. In light of a subsequent 5 year review that concluded in 2021, KCC is updating the KMWLP and changing the plan period from 2013-30 to 2024-39.
- 1.5 KCC has undertaken several rounds of consultation on changes to the Plan and Natural England have commented at each stage. A 'Pre-Submission' Kent Minerals and Waste Local Plan 2024-39 was published for representations in January 2024 in accordance with Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). Following publication of the Plan, Natural England submitted a representation which appeared to suggest that the Plan was unsound. Subsequently KCC and NE have met and discussed the representation and agreed to prepare this Statement of Common Ground that is intended to clarify the position.
- 1.6 Natural England's responses to the various consultations are included in appendices as follows:
- Appendix 1 – Response to Regulation 18 consultation, 16th February 2022.
 - Appendix 2 – Response to second Regulation 18 consultation, 17th December 2022.
 - Appendix 3 – Response to Regulation 18 consultation on 'Further Proposed Changes', 25th July 2023.
 - Appendix 4 – Representation in response to publication of Regulation 19 'Pre-Submission' Plan, 29th February 2024.

2.0 Areas of Common Ground

2.1 The following areas of common ground between the two parties have now been agreed:

1. All the matters raised in the representation made by Natural England were intended to improve the clarity of the Plan and not raise matters of soundness;
2. the Regulation 19 Kent Minerals and Waste Local Plan 2024-2039 is not unsound;
3. the Sustainability Appraisal and Habitats Regulation Assessment are fit for purpose;
4. throughout the preparation of the Plan, KCC and Natural England have engaged constructively, actively and on an ongoing basis;
5. when considering planning applications, KCC will take account of all the policies in the Plan and make a judgement on the suitability of the proposal by applying a planning balance;
6. the term 'unacceptable', before 'adverse impact' is included, and should be retained, in Policies CSM8, CSM9, CSM10, CSW6, DM9, DM12, DM13 to acknowledge that in certain circumstances development may come forward where adverse impacts could occur. In terms of impacts on biodiversity, geodiversity and landscapes, impacts that are unacceptable are determined via the application of Policies DM2 and DM3. The term has been found sound in the examination of the adopted Kent Minerals and Waste Local Plan 2016 and its Early Partial Review in 2020;
7. the term 'so far as is practicable' and 'practicable' used in policies CSM10, DM13 should be retained. Similarly, the term has been found sound in the examination of the adopted Kent Minerals and Waste Local Plan 2016 and its Early Partial Review in 2020;
8. to address Natural England's comments regarding improvements to the clarity of Policies DM2 and DM3, the following changes could be proposed should the Inspector consider it necessary (see highlighted text)

Explanatory text suggested to be included before the wording of Policy DM2 that would note that demonstration of exceptional circumstances could involve an explanation of why the proposed development cannot be located at an alternative site with less harmful impacts.

Policy DM 2

Environmental and Landscape Sites of International, National and Local Importance

Proposals for minerals and/or waste development will be required to ensure that ~~there is no unacceptable adverse impact on~~ **they are not likely to cause significant harm to** the integrity, character, appearance and function, biodiversity and geodiversity interests of sites of international, national and local importance, such that these proposals accord with the avoid, mitigate, compensate hierarchy. **Proposals in coastal locations that are considered likely to cause significant harm to Marine Conservation Zones should also accord with the avoid, mitigate and compensate hierarchy.**

1. International Sites

Minerals and/or waste proposals **(for planning permission, or allocation within the Minerals Sites Plan and any Waste Sites Plan),** ~~located within or~~ **that are** considered **to have a 'likely significant effect'** ~~to have any unacceptable adverse impact~~ **(either alone or in combination with other plans or projects)** on international designated sites, including Ramsar **sites**, Special Protection Areas and Special Areas of Conservation ('National Site Network' as defined by the Changes to the Habitats and Species Regulations 2017 and 'Habitat Sites' as defined by the NPPF), will need to be evaluated **as part of an 'appropriate assessment'** ~~in combination with other projects and plans~~ and be in accordance with established management objectives for the national sites network ('network objectives'). **Where an 'adverse effect on integrity' of an international designated site cannot be ruled out as a result of a proposal** ~~Before any such proposal will be granted planning permission or identified in the Minerals and Waste Sites Plan,~~ it will need to be demonstrated that:

- a. there are no alternatives;
- b. there is a robust case established as to why there are imperative reasons of overriding public interest; and
- c. there is sufficient provision for adequate timely compensation **before permission can be granted, or the allocation can be included within the Minerals Sites Plan and any Waste Sites Plan.**

2. National Sites

Designated National Landscapes have the highest status of protection in relation to landscape and scenic beauty. **When exercising or performing any functions in relation to, or so as to affect land, in a National Landscape, relevant authorities must seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape.** ~~Regard must be had to the purpose of the designation when exercising or performing any functions in relation to, or so as to affect land, in an AONB.~~ For the purposes of this policy, such functions include the determination of planning applications and the allocation of sites in a development plan.

Planning permission for major minerals and waste development in a designated National Landscape will be refused except in exceptional circumstances and where it can be demonstrated that it is in the public interest. In relation to other minerals or waste proposals in a National Landscape, great weight will be given to conserving and enhancing its landscape and scenic beauty. Proposals within the setting of a National Landscape should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

Consideration of such applications will assess;

a. the need for the development, including in terms of any national considerations and the impact of granting, or refusing, the proposal upon the local economy;

b. the cost of, and scope for developing elsewhere outside the designated area, or meeting the need in some other way; and

c. any detrimental impact on the environment, the landscape and recreational opportunities, and the extent to which the impact could be moderated taking account of the relevant AONB Management Plan.

Sites put forward for allocation for minerals or waste development in updates to the Minerals Sites Plan or any Waste Sites Plan will be considered having regard to the above tests. Those that the Minerals and Waste Planning Authority considers unlikely to meet the relevant test(s) will not be allocated.

Proposals for minerals and/or waste developments within or outside of designated Sites of Special Scientific Interest or National Nature Reserves, that are considered likely to have any **unacceptable** adverse impact on a Site of Special Scientific Interest or National Nature Reserve, will not be granted planning permission or identified in updates to the Minerals Sites Plan and any Waste Sites Plan except in exceptional circumstances where it can be demonstrated that **impacts cannot be avoided in the first instance (through locating on an alternative site with less harmful impacts), or adequately mitigated, unless** there is an overriding need for the development and any impacts can be **mitigated or** compensated for, and:

- a. the benefits of the development **in the location proposed clearly** outweigh any impacts that it is likely to have on the features of the site that make it of special scientific interest; and
- b. the benefits of the development outweigh any impacts that it is likely to have on the national network of Sites of Special Scientific Interest.

Minerals and/or waste proposals located within or considered likely to **cause loss or deterioration of** ~~have any unacceptable adverse impact on~~ irreplaceable habitat such as Ancient Woodland and ancient or veteran trees will not be granted planning permission or identified in updates to the Minerals Sites Plan and any Waste Sites Plan unless the need for, and the benefits of the development in that location clearly outweigh any loss, justified by wholly exceptional reasons, and a suitable compensation strategy is in place.

3. Local Sites

Minerals and/or waste proposals within, or likely to have an unacceptable adverse impact on, the Local Sites listed below will not be granted planning permission, or identified in updates to the Minerals Sites Plan and any Waste Sites Plan, unless it can be demonstrated that there is an overriding need for the development and any impacts can be mitigated or compensated for, such that there is a net planning benefit:

- a. Local Wildlife Sites;
- b. Local Nature Reserves;
- c. Priority Habitats and Species;
- d. land that is of regional or local importance as a wildlife corridor or for the conservation and enhancement of geodiversity and biodiversity;
- e. **habitats and species identified in the Kent Nature Partnership Biodiversity Strategy 2020 to 2045**
- ~~ef.~~ Local Geological Sites;
- ~~fg.~~ irreplaceable habitat including aged and veteran trees;
- ~~gh.~~ Country Parks, common land and village greens and other important areas of open space or green areas within built-up areas.
- ~~h.~~ Marine Conservation Zones

Policy DM 3 Ecological Impact Assessment

~~Proposals for minerals and waste developments will be required to ensure that they result in no unacceptable adverse impacts on Kent's important biodiversity assets. These include internationally, nationally and locally designated sites, internationally and nationally protected species, and habitats and species of principal importance for the conservation, protection and enhancement of biodiversity, geodiversity and habitats and species identified in the Kent Nature Partnership Biodiversity Strategy 2020 to 2045.~~

Proposals that are likely to have unacceptable adverse impacts upon important geodiversity and biodiversity assets **(as defined in Policy DM2)** will need to demonstrate that an adequate level of ecological assessment has been undertaken and should provide a positive contribution to the protection, enhancement, creation and management of biodiversity. Such proposals will only be granted planning permission following:

1. an ecological assessment of the site, including preliminary ecological appraisal and, where likely presence is identified, specific protected species surveys;
2. consideration of the **exceptional circumstances that clearly demonstrate the** need for, and benefits of, the development and the reasons for locating the development in its proposed location, **that clearly outweigh its impacts**;

3. **Where impacts cannot be avoided, the identification and securing of measures required to mitigate any adverse impacts (direct, indirect and cumulative) should be identified and appropriately secured;** and,
4. **finally, only as a last resort, the identification and securing of compensatory measures where adverse impacts cannot be avoided or mitigated for, then compensatory measures should be identified and secured.**

All development shall achieve a net gain in biodiversity value in accordance with the requirements of the NPPF. All major development shall deliver at least a 10% net gain in biodiversity value with an expectation that the maximum practicable net gain is achieved. All planning applications must be supported by a Biodiversity Net Gain Plan and relevant supporting reports that demonstrate net gain will be achieved, implemented, managed and maintained.

Restoration of mineral extraction sites for end uses that limit options to maximise biodiversity gain, may still be acceptable, provided the restoration achieves the minimum requirements and it can be demonstrated that the benefits of the restoration proposed would help achieve other objectives within the Development Plan that can be balanced against the need to maximise biodiversity net gain.

5. the following definition of Ancient Woodland should also be added to the Glossary:

‘An area that has been wooded continuously since at least 1600 AD. It includes ancient semi-natural woodland and plantations on ancient woodland sites (PAWS).’

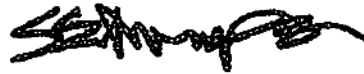
3.0 Agreement between the parties

3.1 This statement is agreed by NE's Senior Adviser (Sustainable Development) and KCC's Head of Planning Applications.



24th April 2024

Luke Hasler, Senior Adviser, Sussex and Kent Area Team, Natural England



25th April 2024

Sharon Thompson, Head of Planning Applications, Kent County Council

Appendix 1 – Natural England Response to Regulation 18 consultation, 16th February 2022.

Date: 16 February 2022
Our ref: 375407
Your ref: Kent CC Minerals and Waste Local Plan 2013-30 Review



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BY EMAIL ONLY

Dear Sharon Thompson

**Planning consultation: Kent County Council Minerals and Waste Local Plan 2013-30 Review
Regulation 18 Consultation**

Thank you for your consultation on the above dated 16 December 2021 which was received by Natural England on the same date.

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.

Please see below our comments on the Plan set out in Annex A.

Yours sincerely

Ella van der Klugt, Senior Advisor
Sustainable Development, Sussex and Kent

Annex A

We welcome the opportunity to comment on Kent County Council's Minerals and Waste Local Plan (KMWLP) 2013-30 Review.

General Comments

We welcome the updates to wording to reflect legislative changes following the departure of the UK from the European Union (EU) and changes brought about through The Environment Act 2021. We also welcome the increase in emphasis on reuse and recycling and circular economy principles to minimise waste.

Policy DM2 – Environmental and Landscape Sites of International, National and Local Importance

We welcome the continued presence of Policy DM 2 which sets out the approach that should be taken by proposals for minerals and/or waste development as regards impact on international, national and local importance. We note the updated wording to reflect changes to the National Planning Policy Framework and the Conservation of Habitats and Species Regulations 2017, and the inclusion of the Mitigation Hierarchy within the policy wording. We welcome in particular the addition of the word '*and*' which makes it clear that all three steps of the hierarchy must be addressed.

Policy CSW 17 - ~~Nuclear Waste Treatment and Storage Management~~ at Dungeness Nuclear Estate

The changes to policy CSW 17 propose updated wording to provide greater flexibility in the management of low level radioactive waste within the Dungeness Licensed Nuclear Estate in Kent. These changes add new wording to set out that (wording in red is the proposed additional wording):

*"...Landfill or landraise activities that use **low-level and very low-level** radioactive wastes, **or other inert waste**, within the nuclear licensed site will not be granted planning permission **unless it can be demonstrated that there is an overriding need for this development and that net gains in landscape and biodiversity can be achieved by the development and any environmental impacts be mitigated to an acceptable level.**"*

This change in wording would potentially allow landfill or land raise activities to take place proximate to 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). The Regulations require a 'competent authority' to carry out an assessment to test if a plan or project could significantly harm the designated features of the Habitat site.

Your Authority has set out in your Habitats Regulation Assessment (HRA) – Position Statement (December 2021) that it is likely that any review of the KMWLP Policy CSW 17 will require a Habitats Regulation Assessment (HRA) to determine if the proposed updated policy could result in any likely direct, or in combination, significant adverse effects on the SPA. While we agree that revision of this policy seems the most likely to have potential effects that require consideration under the Habitats Regulations we would advise that any future HRA sets out clearly and transparently why other Habitat sites / policies have been screened out. We would also like to point out that while the SPA may have recently been extended prior to the KMWLP being adopted we would expect to see any new HRA also

considering the potential for impacts on the Dungeness SAC and Ramsar site given the updated policy wording.

Natural England further draws attention to the recent [People Over Wind Ruling](#) by the Court of Justice of the European Union which concluded that, when interpreting article 6(3) of the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site. The ruling also concluded that such measures can, however, be considered during an appropriate assessment to determine whether a plan or project will have an adverse effect on the integrity of the European site. Your Authority should have regard to this and may wish to seek its own legal advice to fully understand the implications of this ruling in this context.

It is a statutory requirement for competent authorities to consult Natural England for its views under regulation 61(3) when they are carrying out an Appropriate Assessment (AA) and to have regard to any representations that we may make. We would therefore expect to be consulted on any AA relating to this Plan.

Sustainability Appraisal (SA) Scoping Report

Due to pressure of time we have only briefly reviewed the contents of the SA Scoping Report and the updates to wording within the document. We have seen nothing there to raise any concerns but would encourage your Authority to flag to us if there are any particular aspects of this document where you would particularly appreciate our input at this stage.

Final Comments

We would welcome the opportunity to feed into further consultations on this plan, and to provide comments on the Regulation 19 version of the Plan and Sustainability Appraisal once these have been progressed. As noted above, we would expect to be consulted on any AA relating to this Plan.

**Appendix 2 – Natural England Response to second Regulation 18 consultation,
17th December 2022.**

Date: 17 December 2022
Our ref: 410439
Your ref: -



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Dear Sharon Thompson

**Town and County Planning (Local Planning) (England) Regulations 2012
Kent Minerals and Waste Local Plan 2013-30 (the Plan) Review
Regulation 18 Public Consultation**

Thank you for your consultation on the above dated 24 October 2022 and for allowing an extension of time for Natural England to provide our advice.

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.

Natural England welcomes the opportunity to provide comments at this stage and given time constraints we have prioritised our comments to designated sites, protected landscapes and biodiversity and geodiversity matters within our statutory remit. The absence of comments at this stage should not be considered as there being no concerns in relation to the natural environment.

Natural England recommends that in the sites of 'National Importance' within Section 2.2.1 of the Plan Review, reference is made to Marine Conservation Zones as there may be implications for these sites from some of the proposals including the importation wharves, for example.

Natural England welcomes inclusion and consideration of the local nature recovery strategy within Section 2.2.7 and would recommend that as the plan moves towards Regulation 19, this text is updated to reflect any legislation and emerging guidance as this emerges. It would also seem appropriate for reference to the local nature recovery strategy to be referenced within the various policies where environmental enhancements are to be delivered or secured.

Natural England recommends that Figure 5 (Nationally Important Designations) is updated to include the Swanscombe Peninsula Site of Special Scientific Interest and the Marine Conservation Zones around the Kent coast. Boundary files for these are available at <https://naturalengland-defra.opendata.arcgis.com/>. In addition to the ancient woodland plan, it may also be appropriate to include details on priority habitats within Kent, the Priority Habitat Inventory (also available from our data sharing website) may help in preparing such a plan.

Natural England notes that Section 2.3.6 states that 'Historically, sharp sand and gravel deposits have been extracted along Kent's river valleys (River Terrace deposits) and in the Dungeness and Romney Marsh area (Storm Beach deposits). The permitted reserves have become are becoming depleted and are no longer a significant source of supply to meet objectively assessed needs as they historically once were'. Following the early partial review of the Plan and adoption in 2020, Natural England considers it may be appropriate to include detail in this section as to why further

mineral site allocations at Dungeness and Romney Marsh were not considered acceptable on ecological and geodiversity grounds.

The fifth bullet point in the 'Spatial Vision for Minerals and Waste in Kent' details that minerals and waste development will 'Seek to deliver a sustainable, steady and adequate supply of land-won minerals including aggregates, silica sand, crushed rock, brickearth, chalk and clay, building stone and minerals for cement manufacture'. Given the strong emphasis, following the early partial review, on a transition to marine won aggregates, in part due to the environmental impacts from further allocations at Dungeness, we consider that it may be appropriate for this text to be updated to reflect the change in balance to marine won and imported aggregates.

In relation to the Strategic Objectives for the Minerals and Waste Local Plan, the third bullet point could be strengthened by making reference to delivering a positive environmental outcome through biodiversity net gain and contribution to the local nature recovery strategy, for example. In addition, we consider that the ninth bullet point for minerals could also be significantly strengthened to ensure that restoration and aftercare plans deliver environmental benefits by removal of 'where possible' from this policy wording. We consider that 'After uses should conserve and improve local character and provide opportunities for biodiversity...' more closely aligns with the requirements of the National Planning Policy Framework and the wider aspirations within the Plan. We would also recommend that, in addition to the Biodiversity Opportunity Areas, reference is made to the local nature recovery strategy. Natural England would also support the strengthening of the policy wording within the fifteenth bullet point for waste development through the removal of the 'Where possible' wording and a reference to the local nature recovery strategy.

Whilst Natural England acknowledges that the starting point for identifying future supply needs for land-won sand and gravel is the expected need for materials during the plan period (Section 5.2.17), we consider that the environmental impacts of potential allocations should also be considered at the earliest stage possible. Natural England worked closely with the Council on the recent early partial review of the Plan which saw options outside of designated sites, which had a lesser environmental impact, being pursued to meet the County's mineral requirements. We would support a stronger reference to the environmental impacts for all potential allocations being referenced within the Plan.

Natural England considers that Policy CSM2 (Supply of Land-won minerals in Kent) should be significantly strengthened to ensure that sites designated for their landscape, geological and nature conservation interests are robustly considered. Section 6 of Policy CSM 2 refers only to the needs to undertake a Habitats Regulations Assessment when selecting and screening the suitability of sites for allocation. We would recommend that the Policy is amended to more fully reflect the protection afforded to the hierarchy of designated sites from international through to local as detailed within the National Planning Policy Framework. We would support the inclusion of a requirement for an assessment of impacts to Areas of Outstanding Natural Beauty, Sites of Special Scientific Interest and Marine Conservation Zones being referenced within the Policy. In addition, consideration of impacts to irreplaceable habitats, habitats and species of principal importance, protected species and other species and habitats of conservation concern should be considered when allocating sites. Those with the least environmental impact, whilst meeting the other requirements, should proceed to allocation in accordance with the 'avoid, mitigate, compensate' hierarchy within the National Planning Policy Framework.

Natural England considers that, as with our recommendations for strengthening the policy wording within CSM 2, stronger reference to the environmental impacts of non-identified land won mineral sites should be included within Policy CSM 4. Such consideration appears to have been included within Policies CSM 10 and CS W6, for example.

Natural England welcomes the consideration of air quality impacts for the Medway Estuary and Marshes and The Swale Special Protection Areas and Ramsar sites under Policy CSW 5 (Strategic site for waste). The air quality assessment will also need to consider potential impacts to the underpinning Sites of Special Scientific Interest which have a broader suite of notified features.

The reference to consideration of impacts to protected landscapes and designated sites in Policy CSW 6 (Location of built waste management facilities) is welcomed but, as detailed above, we would recommend that reference is also made to Marine Conservation Zones, which may be impacted by developments such as wharves (for example). The natural environment of Kent is rich and varied so in addition to the consideration of impacts to designated sites and areas of ancient woodland, we would recommend that reference is also made to habitats and species of principal importance, protected species and other habitats and species of conservation concern in Policy CSW 6. Such a strengthening of the Policy wording would more closely reflect the requirements of the National Planning Policy Framework.

Policy CSW 8 (Other recovery facilities for non-hazardous waste) includes proposals such as energy from waste developments. These have the potential to result in air quality impacts to nature conservation sites and habitats. Natural England recommends that reference is made to the need for such developments to avoid impacts to designated sites within the Policy wording.

Natural England supports the second bullet point of Policy CSW 9 (Non inert waste landfill in Kent) to ensure that environmental benefits will result from the development. However, we would recommend that the Policy is strengthened to ensure that environmental impacts are avoided or fully mitigated and the proposal also delivers environmental benefits.

Given the concerns expressed in relation to Policies CSW 6 and 9, in its current form Natural England considers that Policy CSW 12 (Hazardous waste management) could result in significant environmental impacts from hazardous waste proposals. As such, Natural England strongly recommends that Policies CSW 6 and 9 are strengthened as detailed above.

Natural England has significant concerns regarding the proposed amendments to Policy CSW 17 (Nuclear waste management at the Dungeness Nuclear Licensed Sites). The Dungeness licensed sites sit within an area of significant geomorphological and nature conservation interest of national and international importance. The licensed sites themselves fall in part within the Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest and the Dungeness Special Area of Conservation. Any increase in activity within these licensed sites has the potential to have a likely significant effect upon the Special Area of Conservation and impact the Site of Special Scientific Interest. Natural England recommends that the policy wording is strengthened significantly to more closely reflect the requirements of the National Planning Policy Framework to ensure that impacts to the designated site are avoided or fully mitigated (rather than being 'mitigated to an acceptable level'). Any proposal will also be subject to a Habitats Regulations Assessment where a likely significant effect cannot be ruled out.

Having reviewed the accompanying Habitats Regulations Assessment to the Plan, Natural England remains concerned regarding the amendment to policy CSW 17. We consider much greater clarity on how the amendments to the policy wording could impact the designated sites and what additional activities this would permit above the consented activities is provided. This will allow a robust consideration of the potential implications from the amendments and a comprehensive Habitats Regulations Assessment to be undertaken. We would therefore welcome the opportunity to explore more fully the implications of the amendments to CSW 17 with the Council to ensure that the Policy wording is sufficiently robust to conserve and enhance the rich environment of the Dungeness designated sites.

The proposed amendments to point six of Policy DM 1 (Sustainable design) include the removal of biodiversity from the matters to be considered. Natural England recommends that the Policy includes specific reference to the sites of biodiversity and landscape value and how any development will avoid, fully mitigate or as a last resort compensate for any impacts to these assets. Such amendments would more closely reflect the requirements of the National Planning Policy Framework.

Natural England welcomes reference to the management objectives for designated sites within Policy DM 2 (Environmental and landscape sites of international, national and local importance) but

consider that the wording should be amended to more closely reflect the requirements of the National Planning Policy Framework. This details in Paragraph 180 that:

‘When determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest’.

Policy DM 2 does not appear to fully reflect the strong presumption against developments which could impact designated sites nor the ‘avoid, mitigate, compensate’ hierarchy for international sites. The wording for Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest more closely reflects the wording within the National Planning Policy Framework which we support. We would therefore recommend that the nature conservation wording is amended to more closely reflect the requirements in the National Planning Policy Framework and The Conservation of Habitats and Species Regulations 2017 (as amended).

The reference to irreplaceable habitats in Policy DM 2 is welcomed; as mentioned above Kent has a rich and varied natural environment and we would support reference to habitats and species of principal importance, protected species and other species and habitats of conservation concerns within Policy DM 2. Such an approach would more closely reflect the requirements of Paragraph 180(a) of the National Planning Policy Framework and ensure that the requirements of the Kent Biodiversity Strategy are incorporated. Whilst it is acknowledged that many of these are included within Policy DM 3, it may be appropriate for consistency for them to be referenced in both policies.

Natural England supports the requirements for robust impact assessments to accompany any application for minerals and waste developments and the addition of geodiversity to the policy wording is welcomed (Policy DM 3 Ecological impact assessment). The requirement for an ecological assessment will not necessarily ensure that geodiversity impacts are fully considered so we would recommend that an ecological and/or geological assessment (as appropriate) should accompany any application. Similarly, the requirement for a positive contribution to the conservation and enhancement of biodiversity is welcomed but the amended wording could be strengthened by also including geodiversity. The wording within Policy DM 3 does not appear to mirror the strong presumption against development within, or impacting, statutory designated sites and irreplaceable habitats contained within Policy DM 2 and the National Planning Policy Framework. The wording within Policy DM 3 suggests that providing impacts are avoided, mitigated or compensated then planning permission will be granted; the requirements within Policy DM 2 and the National Planning Policy Framework indicate that permission should only be granted in exceptional circumstances. We would therefore support the amendment of the policy wording to help avoid any potential for confusion.

Natural England welcomes the supporting text to Policy DM 13 (Transportation of minerals and waste) and the need to undertake an air quality assessment for Habitats Sites. There is also the requirement to consider potential impacts to the underpinning Sites of Special Scientific Interest where these are sensitive to air quality and we would recommend that this is reflected within the Plan. Natural England would also recommend that the air quality assessment will need to consider both the critical load and critical level in any air quality assessment (Sections 7.14.6 and 7.14.7).

Natural England welcomes the commitment to delivery of Kent Biodiversity Strategy targets and landscape enhancement within Policy DM 17 (Planning obligations). We would recommend that the

policy could be strengthened by reference to the local nature recovery strategy (point six) and the conservation and enhancement of notable habitats and species (point nine).

I hope these comments are helpful and 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 relating to the specific advice in this letter only please contact Sean Hanna on 0208 0266 064 or by email to sean.hanna@naturalengland.org.uk. For any new consultations, or to provide further information on this consultation please send these to consultations@naturalengland.org.uk.

Yours sincerely

Sean Hanna
Senior Adviser
Sussex and Kent Team

**Appendix 3 – Natural England Response to Regulation 18 consultation on
'Further Proposed Changes', 25th July 2023.**

Date: 25 July 2023
Our ref: 438127
Your ref: -



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Dear Sharon Thompson

Public Consultation on draft Kent Minerals and Waste Local Plan 2024-39 Further Proposed Changes Consultation Document (Regulation 18) and Public Consultation on draft Kent Mineral Sites Plan Including Details of Nominated Hard Rock Site (Regulation 18)

Thank you for your letters of the 13 June 2023 consulting Natural England on the above reviews of the Kent Minerals and Waste Plan.

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.

Public Consultation on draft Kent Minerals and Waste Local Plan 2024-39 Further Proposed Changes Consultation Document (Regulation 18) and

Having reviewed the Regulation 18 Consultation draft dated May 2023, Natural England has no comments to make at present in relation to the proposed further changes.

Public Consultation on draft Kent Mineral Sites Plan Including Details of Nominated Hard Rock Site (Regulation 18)

Natural England has no comments to make at present in relation to the proposed amendments to the policy wording within the Regulation 18 consultation but is concerned that the proposed nominated site for hard rock at Hermitage Quarry (detailed within Section 4.8 and Appendix 1) is likely to result in significant environmental impacts should the site proceed as an allocation.

The location adjacent to the Oaken Wood Site of Special Scientific Interest (SSSI), within an area of ancient woodland and also within the setting of the Kent Downs Area of Outstanding Natural Beauty means that significant impacts are likely to result. Given the strong policy protection both within the National Planning Policy Framework and the adopted Kent Minerals and Waste Plan, Natural England would expect the Council to fully exhaust alternative means of securing the County's minerals requirements with no or a lesser environmental impact.

Oaken Wood Site of Special Scientific Interest

From the information provided within the Regulation 18 consultation, it is unclear whether the nominated site overlaps with the boundary of the Oaken Wood SSSI. If direct or indirect impacts to the SSSI are likely to result from the proposed nominated site, Natural England would expect the Council to fully exhaust all alternative means of delivering the County's hard rock requirements including the use of recycled material and consideration of alternative ways of meeting the need. Such an approach is in accordance with the National Planning Policy Framework (NPPF) which details in Section 17 (Facilitating the sustainable use of minerals), Paragraph 210 that planning

policies should:

'b) so far as practicable, take account of the contribution that substitute or secondary and recycled materials and minerals waste would make to the supply of materials, before considering extraction of primary materials, whilst aiming to source minerals supplies indigenously;...

f) set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable adverse impacts on the natural and historic environment or human health, taking into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality;'

In addition, Paragraph 211 details that:

'When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy. In considering proposals for mineral extraction, minerals planning authorities should:

b) ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality;'

Paragraph 180, in relation to designated sites, states that:

'b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;'

Policy DM2 of the adopted Kent Minerals and Waste Plan 2020¹ also provides strong policy protection for avoiding allocations which could damage a SSSI:

'2. National Sites

2.2 Proposals for minerals and/or waste developments within or outside of designated Sites of Special Scientific Interest, that are considered likely to have any unacceptable adverse impact on a Site of Special Scientific Interest, will not be granted planning permission or identified in the Minerals and Waste Sites Plans except in exceptional circumstances where it can be demonstrated that:

- a. the benefits of the development outweigh any impacts that it is likely to have on the features of the site that make it of special scientific interest
- b. the benefits of the development outweigh any impacts that it is likely to have on the national network of Sites of Special Scientific Interest.'

If the Council is minded to proceed with allocating the nominated site at Hermitage Quarry, we recommend that a detailed assessment of any direct and indirect impacts along with ways in which these will be avoided or fully mitigated should be provided as part of future iterations of the Plan and fully tested through the Sustainability Appraisal.

Ancient Woodland

The proposed nominated site falls partly within an area of replanted ancient woodland. Such irreplaceable ancient woodland habitat is afforded strong policy protection in the

¹ https://www.kent.gov.uk/_data/assets/pdf_file/0004/112585/Kent-Minerals-and-Waste-Local-Plan-2013-2030.pdf

NPPF as detailed within Section 180 which states that:

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; ...

Policy DM2 of the adopted Kent Minerals and Waste Local Plan provides strong policy protection against allocating sites which could impact ancient woodland:

‘2.3 Minerals and/or waste proposals located within or considered likely to have any unacceptable adverse impact on Ancient Woodland will not be granted planning permission, or identified in the Minerals and Sites Plans, unless the need for, and the benefits of the development in that location clearly outweigh any loss.

Replanted woodlands on ancient woodland soils that contain the ancient woodland features, such as undisturbed soil, ground flora and fungi have the same policy protection as ancient semi-natural woodland mainly made up of trees and shrubs native to the site, usually arising from natural regeneration².

If the Council is minded to proceed with allocating the nominated site at Hermitage Quarry, we recommend that a detailed assessment of any direct and indirect impacts along with ways in which these will be avoided or mitigated should be provided as part of future iterations of the Plan and robustly tested through the Sustainability Appraisal.

As an irreplaceable habitat, it is not possible to compensate for the loss of ancient woodland which should be fully reflected within the Sustainability Appraisal and the draft development management criteria.

Kent Downs Area of Outstanding Natural Beauty

Given the size of the proposed nominated site, there are also potentially significant implications for the Kent Downs Area of Outstanding Natural Beauty with the site falling within its setting.

Paragraph 176 of the NPPF states that:

‘Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.’

In addition, Policy DM2 of the adopted Plan details that:

‘2.1 Designated Areas of Outstanding Natural Beauty (AONB)(101) have the highest status of protection in relation to landscape and scenic beauty. Regard must be had to the purpose of the designation when exercising or performing any functions in relation to, or so as to affect land, in an AONB. For the purposes of this policy, such functions include the determination of planning applications and the allocation of sites in a development plan. Planning permission for major

²<https://www.gov.uk/guidance/ancient-woodland-ancient-trees-and-veteran-trees-advice-for-making-planning-decisions>

minerals and waste development in a designated AONB will be refused except in exceptional circumstances and where it can be demonstrated that it is in public interest. In relation to other minerals or waste proposals in an AONB, great weight will be given to conserving its landscape and scenic beauty. Proposals outside, but within the setting of an AONB will be considered having regard to the effect on the purpose of conserving and enhancing the natural beauty of the AONB. Consideration of such applications will assess;

If the Council is minded to progress this nominated site, then a detailed assessment of any impact to the Kent Downs and the mitigation measures proposed should be provided as part of future iterations of the Plan and tested through the Sustainability Appraisal.

Soils

The Plan should give appropriate weight to the roles performed by the area's soils when considering the nominated site. These should be valued as a finite multi-functional resource which underpins our well-being and prosperity. Decisions about minerals development and restoration should take full account of the impact on soils, their intrinsic character and the sustainability of the many ecosystem services they deliver, for example:

1. Soil is a finite resource that fulfils many important functions and services (ecosystem services) for society; for instance as a growing medium for food, timber and other crops, as a store for carbon and water, as a reservoir of biodiversity and as a buffer against pollution. It is therefore important that the soil resources are protected and used sustainably. The [Natural Environment White Paper](#) (NEWP) *'The Natural Choice: securing the value of nature'* (Defra, June 2011), emphasises the importance of natural resource protection, including the conservation and sustainable management of soils, for example:
 - A Vision for Nature: 'We must protect the essentials of life: our air, biodiversity, soils and water, so that they can continue to provide us with the services on which we rely' (paragraph 2.5).
 - Safeguarding our Soils: 'Soil is essential for achieving a range of important ecosystem services and functions, including food production, carbon storage and climate regulation, water filtration, flood management and support for biodiversity and wildlife' (paragraph 2.60).
 - 'Protect 'best and most versatile' agricultural land' (paragraph 2.35).
2. The conservation and sustainable management of soils also is reflected in the [National Planning Policy Framework](#) (NPPF), particularly in paragraphs 170,171 and 204. When planning authorities are considering land use change, the permanency of the impact on soils is an important consideration. Particular care over planned changes to the most potentially productive soil is needed, for the ecosystem services it supports including its role in agriculture and food production. Plan policies should therefore take account of the impact on land and soil resources and the wide range of vital functions (ecosystem services) they provide in line with paragraph 118 of the NPPF, for example by:
 - Safeguarding the long term capability of best and most versatile agricultural land (Grades 1, 2 and 3a in the Agricultural Land Classification) as a resource for the future.
 - Not identifying new sites or extensions to existing sites for peat extraction.
 - Avoiding development that would disturb or damage other soils of high environmental value (eg ancient woodland soils), and, where development is proposed.
 - Ensuring soil resources are conserved and managed in a sustainable way.
3. To assist in understanding agricultural land quality within the plan area and to safeguard 'best and most versatile' agricultural land in line with paragraph 170 and 171 of the National Planning Policy Framework, strategic scale Agricultural Land Classification (ALC) Maps are available. Natural England also has an archive of more detailed ALC surveys for selected locations. Both these types of data can be supplied digitally free of charge by contacting Natural England. Some of this data is also available on the www.magic.gov.uk website. The planning authority should

ensure that sufficient site specific ALC survey data is available to inform decision making. For example, where no reliable information was available, it would be reasonable to expect that developers should commission a new ALC survey for any sites they wished to put forward for consideration in the Local Plan.

4. General mapped information on soil types, including peaty soils, is available as 'Soilscapes' on the www.magic.gov.uk and also from the LandIS website <http://www.landis.org.uk/index.cfm> which contains more information about obtaining soil data.
5. Where minerals underlie the best and most versatile agricultural land (Grades 1, 2 and 3a in the Defra ALC system) it is particularly important that restoration and aftercare preserve the long-term potential of the land as a national, high quality resource. Where alternative afteruses (such as forestry and some forms of amenity, including nature conservation) are proposed on the best and most versatile agricultural land, the methods used in restoration and aftercare should enable the land to retain its longer-term capability, thus remaining a high quality resource for the future.
6. Reclamation to non-agricultural uses does not mean that there can be any reduced commitment to high standards in the reclamation. Such reclamations require equal commitment by mineral operators, mineral planning authorities and any other parties involved to achieve high standards of implementation.
7. In line with the the [Planning Practice Guidance](#) to support the NPPF; we advise that a soil and ALC assessment should be carried out as part of the site selection process, (see Sections titled [Natural Environment - Brownfield Land, Soils and Agricultural Land](#) (Paras 025 & 026 refer) and [Assessing environmental impacts from minerals extraction](#) (Para 013). It should be noted that some of the potential sites may already have had such surveys carried out, for example by MAFF (see point 3 above), or by potential developers. These surveys can then be used to inform any subsequent soil moving and site restoration plans. Further information can be found in the Defra [Guidance for Successful Reclamation of Mineral and Waste sites](#) and [Good Practice Guide for Handling Soils](#).

Summary of advice

Based upon the information provided within the Regulation 18 consultation, Natural England is concerned that the nature and scale of the impacts and the ability to mitigate them within the draft Sustainability Appraisal may be underestimated. As ancient woodland is an irreplaceable habitat, it is not possible to compensate for direct loss of this habitat.

Given the significant direct and indirect impacts to the natural environment that the proposed nominated site at Hermitage Quarry is likely to have, we recommend that the Council should undertake a comprehensive and independent consideration of whether there are alternative sites or sources of material which will avoid or result in lesser environmental effects. This assessment should include alternative sites, including those outside of the County boundary and alternative sources such as recycled material. This assessment should include landscape, nature and geological conservation and soil considerations in addition to the socio-economic impacts.

Once this assessment has been undertaken, and if the Council considers there are exceptional circumstances that justify the allocation, and the site proceeds to allocation, the Sustainability Appraisal and proposed Development Management policies should be updated to reflect the results of the impact assessment and any mitigation and compensation measures proposed (whilst acknowledging that it is not possible to compensate for the loss of irreplaceable ancient woodland habitat).

Such an approach is in accordance with the 'avoid, mitigate, compensate' hierarchy within the NPPF. Without such an assessment, the Minerals Plan may be unsound if it is not in accordance with the NPPF.

I trust these comments are helpful. Should you have any queries regarding this letter please do not hesitate to contact me by telephone on 0208 0266 064 or by email to sean.hanna@naturalengland.org.uk.

Yours sincerely

Sean Hanna
Sussex and Kent Area Team

Appendix 4 – Natural England Representation in response to publication of Regulation 19 ‘Pre-Submission’ Plan, dated 29th February 2024.

Date: 29th February 2024
Our ref: 464024



Minerals and Waste Planning Policy
Planning Applications Group
Invicta House
Maidstone
Kent
ME14 1XX

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

BY EMAIL ONLY

To whom it may concern,

Planning consultation: Draft Kent Minerals and Waste Local Plan Update 2024-2039 - Regulation 19

Thank you for your consultation on the above dated 17th January 2024 which was received by Natural England on 17th January 2024.

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.

Natural England welcomes the opportunity to provide our comments on the draft Regulation 19 Kent Minerals and Waste Local Plan Update (2024 – 2039). A copy of our comments can be found within the provided proforma document, as appended to this letter. We have only provided comments on policies within our remit, and those that we believe to be unsound. Where we have considered certain policies to be unsound, we have provided comments and amendments that we believe would help to ensure that the Local Plan update and the policies contained within can be considered as being sound.

Habitats Regulations Assessment

The submitted appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the European sites considered within the Plan area. Having considered the assessment, Natural England advises that we concur with the assessment conclusions and that an adverse effect on integrity can be ruled out.

Sustainability Appraisal

Having reviewed the submitted Sustainability Appraisal, Natural England can confirm that we have no comments to make on it.

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A. Should the proposal change, please consult us again.

If you have any queries relating to the advice in this letter please contact me at luke.hasler@naturalengland.org.uk

Yours sincerely,

Luke Hasler
Sussex & Kent Area Team

Representation Form

We welcome your comments on the Pre-Submission Draft of the Kent Minerals and Waste Local Plan 2024-39.

We have provided this form to help you tell us your views on soundness and legal compliance of the draft Plan. Your responses will form part of the submission of the draft Kent Minerals and Waste Local Plan 2024-39 to the Secretary of State for Independent Examination. Once completed this form can be uploaded online at www.kent.gov.uk/mineralsandwaste

If you are unable to upload the form online, please complete this Word/paper form and return it to:

Email: mwlp@kent.gov.uk

Address: Minerals and Waste Planning Policy Team, Planning Applications Group, Invicta House, Maidstone, Kent, ME14 1XX

Please ensure your response reaches us by midnight on Thursday 29 February 2024. Please note that responses received after this deadline will not be considered.

What information do you need before completing the questionnaire?

Before commenting on the Pre-Submission Draft of the Kent Minerals and Waste Local Plan 2024-39, we would strongly recommend that you read the [Guidance on making a Representation](#), the [Statement of Representations Procedure](#) and consultation documents. This consultation specifically invites comments on soundness and legal compliance and the guidance note explains the soundness tests and statutory plan making requirements relevant to this consultation.

Please note: There will not be any other opportunities to make further representations or provide evidence following this consultation. Please include all the information, evidence and supporting information necessary to support or justify your response and any suggested change(s) to the Plan. After this stage, further submissions will only be invited at the request of the Planning Inspector, based on the matters and issues he/she identifies for examination.

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.

You may also find it helpful to read our [Frequently Asked Questions](#).

Privacy: Kent County Council (KCC) collects and processes personal information in order to provide a range of public services. KCC respects the privacy of individuals and endeavours to ensure personal information is collected fairly, lawfully, and in compliance with the General Data Protection Regulation and Data Protection Act 2018. Read the full Privacy Notice at the end of this document.

Alternative formats: If you require any of the consultation material in an alternative format or language, please email: alternativeformats@kent.gov.uk or call: 03000 42 15 53 (text relay service number: 18001 03000 42 15 53). This number goes to an answering machine, which is monitored during office hours.

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.

Luke Hasler

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

Please write in below.

Natural England

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.

Name: Luke Hasler

Email: luke.hasler@naturalengland.org.uk

Address: Natural England, International House, Dover Place, Ashford, TN23 1HU

Section B - Representation

Q2. Which part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation does this representation relate to? Please be specific in terms of paragraph numbers and document title. Please tell us in the box below.

CSM 8 – Secondary and Recycled Aggregates

Q2a. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be legally compliant? Select one option.

Yes No Don't Know

Q2b. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be sound? Select one option.

Yes No Don't Know

The Inspector must be satisfied that the Local Plan meets four soundness requirements: is 'positively prepared', is 'justified', 'effective' and 'consistent with national policy'. In the [Guidance on making a Representation](#) document you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound, please select the reason for this: Please select all that apply.

- | | |
|-------------------------------------|---------------------------------|
| <input type="checkbox"/> | Positively prepared |
| <input type="checkbox"/> | Justified |
| <input type="checkbox"/> | Effective |
| <input checked="" type="checkbox"/> | Consistent with national policy |

On the following pages, please explain why you think this part of the Plan is unsound or not legally compliant, and set out any changes you feel should be made to this part of the Plan to make the Plan sound and legally compliant.

Q2d. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound and/or not legally compliant, please explain why in the box below.

Please be precise and give as much detail as possible.

Natural England considers that the inclusion of the word 'unacceptable' is ambiguous and does not provide sufficient clarity as to how environmental impacts will be robustly assessed as being either acceptable or unacceptable. Furthermore, we would advise that the current policy wording could imply that there may be instances when 'acceptable' impacts to biodiversity may still occur without having been dealt with in line with mitigation hierarchy i.e., being avoided in the first instance. As such, we believe that in its current form the policy wording is contrary to Paragraph 186a of the National Planning Policy Framework, wherein significant harm to biodiversity resulting from a development should be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for.

When assessing proposals for additional capacity and/or aggregate production, a robust consideration should be made of the potential environmental impacts (in line with the mitigation hierarchy). Natural England is concerned that the current policy wording may facilitate a continuation of adverse impacts to biodiversity assets where they occur, because they had previously been considered to be 'acceptable' when originally permitted. Instead, we would advise that all proposed developments should be assessed against the best-available evidence and recent survey data, where applicable.

Furthermore, the current policy wording could give rise to new development that has adverse impacts (even if it is 'no worse' than the current situation), without having been properly assessed against the principles outlined within Paragraph 186 of the National Planning Policy Framework and/or the exceptional circumstances tests outlined within it. We would therefore advise that the policy wording should be amended to ensure that it accurately reflects the National Planning Policy Framework, and ensures that potential future impacts are first avoided, then mitigated for, and as a last resort, compensated for.

Q3. Please explain in the box below what change(s) you consider necessary to make the draft Kent Minerals and Waste Local Plan 2024-39 legally compliant and/or sound.

Please be precise as possible and explain why this change(s) would make the draft Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

In order to make the Plan sound, Natural England would recommend the following changes to the policy wording:

Secondary and Recycled Aggregates

Processing capacity will be maintained to allow the production of at least 2.7 million tonnes per annum or the productive capacity value in the latest Local Aggregate Assessment (whichever is the greater) of secondary and recycled aggregates, throughout the Plan period.

Proposals for additional capacity for secondary and recycled aggregate production including those relating to the expansion of capacity at existing facilities that increases the segregation and hence end product range/quality achieved, will be granted planning permission if they are well located in relation to the source of input materials or need for output materials, have good transport infrastructure links and accord with the other relevant policies in the development plan, at the following types of sites:

- 1. temporary demolition, construction, land reclamation and regeneration projects and highways developments where materials are either generated or to be used in the project or both for the duration of the project (as defined by the planning permission)*
- 2. appropriate mineral operations (including wharves and rail depots) for the duration of the host site permission.*
- 3. appropriate waste management operations for the duration of the host site permission.*
- 4. industrial estates, where the proposals are compatible with other policies set out in the development plan including those relating to employment and regeneration.*
- 5. any other type of site that meets the requirements cited in the second paragraph of this policy above.*

The term 'appropriate' in this policy is defined in terms of the proposal demonstrating that it will not give rise to unacceptable adverse impacts on communities or the environment as a whole ~~ever and above the levels that had been considered to be acceptable for the host site when originally permitted without the additional facility.~~

Planning permission will be granted to re-work old inert landfills and dredging disposal sites to produce replacement aggregate material where it is demonstrated that net gains in landscape, biodiversity or amenity can be achieved by the operation and

environmental impacts ~~can be~~ **are avoided in the first instance, or where not possible, fully** mitigated ~~to an acceptable level.~~

Q4. If you support the draft Kent Minerals and Waste Local Plan 2024-39, and wish to make any comments to that affect, please use the box below.

The Planning Inspector will determine whether hearing sessions are required. If they are, he/she will also decide the most appropriate procedure to hear from those who have indicated that they wish to participate at the hearing sessions during the examination.

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

- Yes, I wish to speak to the Inspector at any hearing sessions
- No, I wish to communicate through written representations
- 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:

Q2. Which part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation does this representation relate to? Please be specific in terms of paragraph numbers and document title. Please tell us in the box below.

CSM 9 – Building Stone in Kent

Q2a. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be legally compliant? Select one option.

Yes

No

Don't Know

Q2b. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be sound? Select one option.

Yes

No

Don't Know

The Inspector must be satisfied that the Local Plan meets four soundness requirements: is 'positively prepared', is 'justified', 'effective' and 'consistent with national policy'. In the [Guidance on making a Representation](#) document you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound, please select the reason for this: Please select all that apply.

Positively prepared

Justified

Effective

Consistent with national policy

On the following pages, please explain why you think this part of the Plan is unsound or not legally compliant, and set out any changes you feel should be made to this part of the Plan to make the Plan sound and legally compliant.

Q2d. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound and/or not legally compliant, please explain why in the box below.

Please be precise and give as much detail as possible.

Natural England considers that the inclusion of the word 'unacceptable' is ambiguous and does not provide sufficient certainty as to how environmental impacts will be robustly assessed as being either acceptable or unacceptable. Furthermore, we advise that the current policy wording could imply that there may be instances when 'acceptable' impacts to biodiversity may still occur without having been dealt with in line with mitigation hierarchy i.e., being avoided in the first instance. As such, we believe that in its current form the policy wording is contrary to Paragraph 186a of the National Planning Policy Framework, wherein significant harm to biodiversity resulting from a development should be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for.

Q3. Please explain in the box below what change(s) you consider necessary to make the draft Kent Minerals and Waste Local Plan 2024-39 legally compliant and/or sound.

Please be precise as possible and explain why this change(s) would make the draft Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

In order to make the Plan sound, Natural England would recommend the following changes to the policy wording:

Building Stone in Kent

Planning permission will be granted for proposals that are needed to provide a supply of local building stone necessary for restoration work associated with the maintenance of historic buildings and structures and new build projects, subject to:

1. *Development taking place in appropriate locations where the proposals do not have ~~unacceptable~~ adverse impacts on the local environment and communities,; and*
2. *There being no other suitable, sustainable sources of the stone available.*

Q4. If you support the draft Kent Minerals and Waste Local Plan 2024-39, and wish to make any comments to that affect, please use the box below.

The Planning Inspector will determine whether hearing sessions are required. If they are, he/she will also decide the most appropriate procedure to hear from those who have indicated that they wish to participate at the hearing sessions during the examination.

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

- Yes, I wish to speak to the Inspector at any hearing sessions
- No, I wish to communicate through written representations
- 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:

Q2. Which part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation does this representation relate to? Please be specific in terms of paragraph numbers and document title. Please tell us in the box below.

CSM 10 – Oil, Gas and Unconventional Hydrocarbons

Q2a. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be legally compliant? Select one option.

Yes

No

Don't Know

Q2b. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be sound? Select one option.

Yes

No

Don't Know

The Inspector must be satisfied that the Local Plan meets four soundness requirements: is 'positively prepared', is 'justified', 'effective' and 'consistent with national policy'. In the [Guidance on making a Representation](#) document you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound, please select the reason for this: Please select all that apply.

Positively prepared

Justified

Effective

Consistent with national policy

On the following pages, please explain why you think this part of the Plan is unsound or not legally compliant, and set out any changes you feel should be made to this part of the Plan to make the Plan sound and legally compliant.

Q2d. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound and/or not legally compliant, please explain why in the box below.

Please be precise and give as much detail as possible.

Natural England considers that the current policy wording does not conform with Paragraph 186a of the National Planning Policy Framework and the mitigation hierarchy, wherein significant harm to biodiversity resulting from a development should first be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for. It is Natural England's opinion that the use of the word 'minimise' instead of 'avoid' indicates that impacts will not be avoided in the first instance; and that it also infers that there may be residual impacts that are not wholly addressed. We would advise that all impacts should be fully addressed in line with the mitigation hierarchy i.e., avoid, then mitigate, and as a last resort, compensate.

Natural England considers that the use of the word 'unacceptable' is ambiguous and does not provide sufficient certainty as to how environmental impacts will be robustly assessed as being either acceptable or unacceptable. Furthermore, we would advise that the current policy wording could imply that there may be instances when 'acceptable' impacts to biodiversity may still occur without having been fully considered in line with mitigation hierarchy i.e., being avoided in the first instance.

Natural England advise that inclusion of the word 'practicable' appears contrary to Paragraph 182 of the National Planning Policy Framework wherein development should avoid or minimise adverse impacts to nationally designated landscapes. Whilst we support the need to restore any affected land to a high-quality and appropriate after-use that reflects the local landscape character, we consider that the inclusion of the word 'practicable' may lead to the duration of adverse landscape impacts being extended, rather than being minimised.

Q3. Please explain in the box below what change(s) you consider necessary to make the draft Kent Minerals and Waste Local Plan 2024-39 legally compliant and/or sound.

Please be precise as possible and explain why this change(s) would make the draft Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

In order to make the Plan sound, Natural England would recommend the following changes to the policy wording:

Oil, Gas and Unconventional Hydrocarbons Planning permission will be granted for proposals associated with the exploration, appraisal and production of oil, gas and unconventional hydrocarbons subject to:

- 1. well sites and associated facilities being sited, ~~so far as is practicable~~, to ~~minimise~~ **avoid** impacts on the environment and communities*
- 2. developments being located outside Protected Groundwater Source Areas*
- 3. there being no ~~unacceptable~~ adverse impacts (in terms of quantity and quality) upon sensitive water receptors including groundwater, water bodies and wetland habitats*
- 4. all other environmental and amenity impacts being mitigated to ensure that there is no ~~unacceptable~~ adverse impact on the local environment or communities*
- 5. exploration and appraisal operations being for an agreed, temporary length of time*
- 6. the drilling site and any associated land being restored to a high-quality standard and appropriate after-use that reflects the local landscape character at the earliest ~~practicable~~ opportunity.*
- 7. it being demonstrated that greenhouse gases associated with fugitive emissions from the exploration, testing and production activities will not lead to ~~unacceptable~~ adverse environmental impacts.*

Particular consideration will be given to the location of hydrocarbon development involving hydraulic fracturing having regard to impacts on water resources, seismicity, local air quality, landscape, noise and lighting impacts. Such development will not be supported within protected groundwater source protection zones or where it might adversely affect or be affected by flood risk or within Air Quality Management Areas or protected areas for the purposes of the Infrastructure Act 2015, section 50.

Q4. If you support the draft Kent Minerals and Waste Local Plan 2024-39, and wish to make any comments to that effect, please use the box below.

The Planning Inspector will determine whether hearing sessions are required. If they are, he/she will also decide the most appropriate procedure to hear from those who have indicated that they wish to participate at the hearing sessions during the examination.

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

- Yes, I wish to speak to the Inspector at any hearing sessions
- No, I wish to communicate through written representations
- 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:

Q2. Which part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation does this representation relate to? Please be specific in terms of paragraph numbers and document title. Please tell us in the box below.

CSM 11 – Prospecting for Carboniferous Limestone

Q2a. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be legally compliant? Select one option.

Yes

 No

 Don't Know

Q2b. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be sound? Select one option.

Yes

 No

 Don't Know

The Inspector must be satisfied that the Local Plan meets four soundness requirements: is 'positively prepared', is 'justified', 'effective' and 'consistent with national policy'. In the [Guidance on making a Representation](#) document you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound, please select the reason for this: Please select all that apply.

- Positively prepared
- Justified
- Effective
- Consistent with national policy

On the following pages, please explain why you think this part of the Plan is unsound or not legally compliant, and set out any changes you feel should be made to this part of the Plan to make the Plan sound and legally compliant.

Q2d. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound and/or not legally compliant, please explain why in the box below.

Please be precise and give as much detail as possible.

As per the supporting text for this policy, it is understood that the location of the underground limestone resource is in the vicinity of calcareous grassland, which is an important habitat, being registered with both the national and Kent Biodiversity Action Plans (BAPs) and as a Habitat of Principal Importance under the Natural Environment and Rural Communities Act 2006. Furthermore, there are also Habitat sites, SSSIs and Local Wildlife Sites within the Plan area.

Whilst Natural England notes that a new site has not been identified within this Plan, and that the East Kent Limestone mine has not been progressed for a significant period of time, we would advise that – given the importance of calcareous grassland, both as a Habitat of Principal Importance – and as a feature of statutory designated sites within the Plan area, we would advise that the policy should be updated to reflect its importance. We would therefore advise that any prospecting for Carboniferous Limestone should be considered in line with the principles outlined within Paragraph 186 of the National Planning Policy Framework.

Q3. Please explain in the box below what change(s) you consider necessary to make the draft Kent Minerals and Waste Local Plan 2024-39 legally compliant and/or sound.

Please be precise as possible and explain why this change(s) would make the draft Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

In order to make the Plan sound, Natural England would recommend the following changes to the policy wording:

Prospecting for Carboniferous Limestone

Planning permission will be granted at suitable locations for the drilling operations associated with the prospecting for underground limestone resources in East Kent subject to exploration and appraisal operations being for an agreed, temporary length of time.

Suitable locations can be defined as those that have been considered and assessed in-line with the mitigation hierarchy (Paragraph 186a of the National Planning Policy Framework).

Q4. If you support the draft Kent Minerals and Waste Local Plan 2024-39, and wish to make any comments to that affect, please use the box below.

The Planning Inspector will determine whether hearing sessions are required. If they are, he/she will also decide the most appropriate procedure to hear from those who have indicated that they wish to participate at the hearing sessions during the examination.

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

- Yes, I wish to speak to the Inspector at any hearing sessions
- No, I wish to communicate through written representations
- 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:

Q2. Which part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation does this representation relate to? Please be specific in terms of paragraph numbers and document title. Please tell us in the box below.

CSM 12 – Sustainable Transport of Minerals

Q2a. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be legally compliant? Select one option.

Yes
 No
 Don't Know

Q2b. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be sound? Select one option.

Yes
 No
 Don't Know

The Inspector must be satisfied that the Local Plan meets four soundness requirements: is 'positively prepared', is 'justified', 'effective' and 'consistent with national policy'. In the [Guidance on making a Representation](#) document you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound, please select the reason for this: Please select all that apply.

- Positively prepared
- Justified
- Effective
- Consistent with national policy

On the following pages, please explain why you think this part of the Plan is unsound or not legally compliant, and set out any changes you feel should be made to this part of the Plan to make the Plan sound and legally compliant.

Q2d. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound and/or not legally compliant, please explain why in the box below.

Please be precise and give as much detail as possible.

Natural England advise that the current policy wording does not appear to consider Paragraphs 180 – 188 of the National Planning Policy Framework (impacts to the natural and local environment). We would advise that planning permission should only be granted where a proposed development has been assessed against – and is found to be consistent with – relevant environmental policies.

Whilst we support the overall ambition of this Policy to identify and revive sustainable methods of transport within the Plan Area, we do not currently feel that sufficient consideration is currently given within this policy to the potential impacts to statutory designated sites that could arise from the provision of both new transport infrastructure and/or their associated transport corridors. As such, we would reiterate that this ambition should not be delivered without due regard to the relevant environmental policies enshrined within National Policy and/or legislation.

Q3. Please explain in the box below what change(s) you consider necessary to make the draft Kent Minerals and Waste Local Plan 2024-39 legally compliant and/or sound.

Please be precise as possible and explain why this change(s) would make the draft Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

In order to make the Plan sound, Natural England would recommend the following changes to the policy wording:

Sustainable Transport of Minerals

Planning permission for any new wharf and/or rail depot importation operations, or for wharves and rail depots that have been operational in the past (having since fallen out of use), that includes the transport of minerals by sustainable means (i.e. sea, river or rail) as the dominant mode of transport will be granted planning permission where:

- 1. They are well located in relation to the Key Arterial Routes across Kent; and*
- 2. The proposals are compatible with other local employment, **environmental** and regeneration policies set out in the development plan.*

Q4. If you support the draft Kent Minerals and Waste Local Plan 2024-39, and wish to make any comments to that affect, please use the box below.

The Planning Inspector will determine whether hearing sessions are required. If they are, he/she will also decide the most appropriate procedure to hear from those who have indicated that they wish to participate at the hearing sessions during the examination.

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

- Yes, I wish to speak to the Inspector at any hearing sessions
- No, I wish to communicate through written representations
- 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:

Q2. Which part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation does this representation relate to? Please be specific in terms of paragraph numbers and document title. Please tell us in the box below.

CSW 6 – Location of Built Waste Management Facilities

Q2a. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be legally compliant? Select one option.

Yes
 No
 Don't Know

Q2b. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be sound? Select one option.

Yes
 No
 Don't Know

The Inspector must be satisfied that the Local Plan meets four soundness requirements: is 'positively prepared', is 'justified', 'effective' and 'consistent with national policy'. In the [Guidance on making a Representation](#) document you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound, please select the reason for this: Please select all that apply.

Positively prepared
 Justified
 Effective
 Consistent with national policy

On the following pages, please explain why you think this part of the Plan is unsound or not legally compliant, and set out any changes you feel should be made to this part of the Plan to make the Plan sound and legally compliant.

Q2d. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound and/or not legally compliant, please explain why in the box below.

Please be precise and give as much detail as possible.

Natural England does not consider that the inclusion of the word 'significant' (in reference to internationally and nationally designated sites) accurately reflects the mitigation hierarchy as included within the Paragraph 186a of the National Planning Policy Framework, wherein significant harm to biodiversity resulting from a development should be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for. It is our opinion that the current policy wording indicates that there is a presumption in favour of mitigating and compensating for adverse impacts rather than avoiding them in the first instance.

With regard to the use of the word 'significant' (in the context of National Landscapes, previously known as AONBs), Natural England advise that the current policy wording may be contrary to the recent duty on relevant authorities (as enshrined within the Levelling-up and Regeneration Act 2023) to "*further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty*" when exercising their functions. Furthermore, we advise that it may also be contrary to Paragraph 182 of the National Planning Policy Framework which states that development should be sensitively located and designed to avoid or minimise adverse impacts on designated areas. We would advise that the current policy wording could imply that there is a presumption in favour of mitigating for 'significant' adverse impacts rather than avoiding them in the first instance.

Paragraph 186c of the National Planning Policy Framework states that "*development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists*". It is our opinion that the Policy wording in its current form could give rise to what are deemed to be 'insignificant' adverse impacts on ancient woodland. We would however advise that this appears to be contrary to the National Planning Policy Framework wherein development that results in a deterioration (or a loss) of irreplaceable habitats such as ancient woodland should be refused, unless there are wholly exceptional circumstances. We would therefore not consider it possible to assess either a loss or deterioration of an irreplaceable habitat to be insignificant. The National Planning Policy Framework also defines ancient woodland as "*ancient semi-natural woodland and plantations on ancient woodland sites*". We would therefore advise that this definition should be included within this policy for the avoidance of doubt and to ensure its protection.

Natural England considers that the inclusion of the word 'unacceptable' is ambiguous and does not provide sufficient certainty as to how environmental impacts will be robustly assessed as being either acceptable or unacceptable. Furthermore, we

consider that the current policy wording could imply that there may be instances when 'acceptable' impacts to biodiversity may still occur without having been dealt with in line with mitigation hierarchy i.e., being avoided in the first instance. As per our comments above, we would reiterate that impacts to biodiversity should be avoided in the first instance, then mitigated, and finally, compensated for.

Q3. Please explain in the box below what change(s) you consider necessary to make the draft Kent Minerals and Waste Local Plan 2024-39 legally compliant and/or sound.

Please be precise as possible and explain why this change(s) would make the draft Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

In order to make the Plan sound, Natural England would recommend the following changes to the policy wording:

Location of Built Waste Management Facilities

Planning permission will be granted for proposals that:

- a) *Do not give rise to ~~significant~~ adverse impacts upon national and international designated sites, including designated National Landscapes Areas of Outstanding Natural Beauty (AONB), Sites of Special Scientific Interest (SSSI), Special Areas of Conservation (SAC), Special Protection Areas (SPAs), Ramsar sites, and heritage assets. (See Figures 4, 5 & 6). **Development within a National Landscape must also seek to further the purpose of conserving and enhancing the natural beauty of the site.***
- b) *do not give rise to ~~significant~~ adverse impacts upon Local Wildlife Sites (LWS), Local Nature Reserves (LNR), Ancient Woodland (**including ancient semi-natural woodland and plantations on ancient woodland sites (PAWS)**), Air Quality Management Areas (AQMAs) and groundwater resources. (See Figures 7, 8, 10 & 15)*
- c) *are well located in relation to Kent's Key Arterial Routes, and/or railheads and wharves avoiding proposals which would give rise to unacceptable adverse impacts on local roads and/or villages.*
- d) *do not represent inappropriate development in the Green Belt.*
- e) *avoid Groundwater Source Protection Zone.*
- f) *avoid Flood Risk Zone 3b76.*

- g) avoid sites on or in proximity to land where alternative development exists/has planning permission or is identified in an adopted Local Plan for alternate uses that may prove to be incompatible with the proposed waste management uses on the site.*
- h) for energy producing facilities - sites are in proximity to existing or planned heat users.*
- i) for facilities that may involve prominent structures (including chimney stacks) the ability of the landscape to accommodate the structure (including any associated emission plume) after mitigation.*
- j) for facilities involving operations that may give rise to bioaerosols (e.g. composting) to locate at least 250m away from any potentially sensitive receptors.*

Where it is demonstrated that waste will be dealt with further up the hierarchy, or it is replacing capacity lost at existing sites, facilities that satisfy the relevant criteria above on land in the following locations will be granted consent, providing there is no ~~unacceptable~~ adverse impact on the environment and communities and where such uses are compatible with the development plan:

- 1. within or adjacent to an existing mineral development or waste management use*
- 2. forming part of a new major development for B8 employment or mixed uses*
- 3. within existing industrial estates*
- 4. other previously developed, contaminated or derelict land not allocated for another use*
- 5. redundant agricultural and forestry buildings and their curtilages*
- 6. within farm units where the proposal is for composting or anaerobic digestion and the compost / digestate is to be used within that unit.*

Proposals on greenfield land will only be permitted if it can be demonstrated that there are no suitable locations identifiable from categories 1 to 6 above within the intended catchment area of waste arisings. Particular regard will be given to whether the nature of the proposed waste management activity requires an isolated location.

Q4. If you support the draft Kent Minerals and Waste Local Plan 2024-39, and wish to make any comments to that effect, please use the box below.

The Planning Inspector will determine whether hearing sessions are required. If they are, he/she will also decide the most appropriate procedure to hear from those who have indicated that they wish to participate at the hearing sessions during the examination.

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

- Yes, I wish to speak to the Inspector at any hearing sessions
- No, I wish to communicate through written representations
- 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:

Q2. Which part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation does this representation relate to? Please be specific in terms of paragraph numbers and document title. Please tell us in the box below.

DM 1 – Sustainable Design

Q2a. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be legally compliant? Select one option.

Yes

No

Don't Know

Q2b. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be sound? Select one option.

Yes

No

Don't Know

The Inspector must be satisfied that the Local Plan meets four soundness requirements: is 'positively prepared', is 'justified', 'effective' and 'consistent with national policy'. In the [Guidance on making a Representation](#) document you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound, please select the reason for this: Please select all that apply.

Positively prepared

Justified

Effective

Consistent with national policy

On the following pages, please explain why you think this part of the Plan is unsound or not legally compliant, and set out any changes you feel should be made to this part of the Plan to make the Plan sound and legally compliant.

Q2d. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound and/or not legally compliant, please explain why in the box below.

Please be precise and give as much detail as possible.

Natural England considers that the use of the word 'minimise' (in the context of potential losses of Best and Most Versatile Agricultural Land) does not fully reflect Paragraph 180 of the National Planning Policy Framework wherein it is stated that:

"Planning policies and decisions should contribute to and enhance the natural and local environment by ...

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land".

We advise that, in order to properly contribute to and enhance the natural and local environment, that impacts to best and most versatile land should be avoided in the first instance, rather than minimised. Where losses cannot be avoided, then we would recommend that, as outlined within Footnote 62 of the National Planning Policy Framework, that losses should be prioritised in areas that are of the lowest agricultural value instead. In its current form, we do not consider that the policy wording accurately captures this.

Q3. Please explain in the box below what change(s) you consider necessary to make the draft Kent Minerals and Waste Local Plan 2024-39 legally compliant and/or sound.

Please be precise as possible and explain why this change(s) would make the draft Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

In order to make the Plan sound, Natural England would recommend the following changes to the policy wording:

Sustainable Design Proposals for minerals and waste development will be required to demonstrate that they have been designed in accordance with best practice to:

- 1. minimise greenhouse gas emissions which may arise from the construction and operation of the development;*
- 2. minimise other emissions of pollutants which may arise from construction and operation;*

3. *minimise energy and water consumption during their construction and operation and incorporate measures for water recycling and utilisation of low carbon renewable energy;*
4. *minimise waste and maximise the re-use or recycling of materials during their construction and operation;*
5. *incorporate climate change adaptation measures including sustainable urban drainage systems, suitable shading of pedestrian routes and open spaces and drought resistant landscaping unless there is clear evidence that this would be inappropriate;*
6. *protect and enhance the character and quality of the site's setting or mitigate and if necessary compensate for any predicted loss;*
7. *maxmise opportunities to contribute to green and blue infrastructure, to include benefits to communities (including Public Rights of Way), and to contribute to biodiversity net gain;*
8. **Avoid in the first instance** *minimise the loss of Best and Most Versatile Agricultural Land and protect soils more generally;* **Where this is not possible, then losses should be minimised by prioritising the loss of areas of poorer quality land over those of a higher quality.**
9. *achieve a BREEAM 'Very Good' standard or equivalent where appropriate; and*
10. *where possible, utilise existing buildings and achieve an efficient re-use or land.*

Q4. If you support the draft Kent Minerals and Waste Local Plan 2024-39, and wish to make any comments to that affect, please use the box below.

The Planning Inspector will determine whether hearing sessions are required. If they are, he/she will also decide the most appropriate procedure to hear from those who have indicated that they wish to participate at the hearing sessions during the examination.

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 checked="" type="checkbox"/> | No, I wish to communicate through written representations |
| <input 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:

Q2. Which part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation does this representation relate to? Please be specific in terms of paragraph numbers and document title. Please tell us in the box below.

DM 2 – Environmental and Landscape Sites of International, National and Local Importance

Q2a. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be legally compliant? Select one option.

Yes

 No

 Don't Know

Q2b. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be sound? Select one option.

Yes

 No

 Don't Know

The Inspector must be satisfied that the Local Plan meets four soundness requirements: is 'positively prepared', is 'justified', 'effective' and 'consistent with national policy'. In the [Guidance on making a Representation](#) document you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound, please select the reason for this: Please select all that apply.

- Positively prepared
- Justified
- Effective
- Consistent with national policy

On the following pages, please explain why you think this part of the Plan is unsound or not legally compliant, and set out any changes you feel should be made to this part of the Plan to make the Plan sound and legally compliant.

Q2d. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound and/or not legally compliant, please explain why in the box below.

Please be precise and give as much detail as possible.

Natural England considers that the inclusion of the word ‘unacceptable’ is ambiguous and does not provide sufficient certainty as to how environmental impacts will be robustly assessed as being either acceptable or unacceptable. Furthermore, we consider that the current policy wording could imply that there may be instances when ‘acceptable’ impacts to biodiversity may still occur without having been dealt with in line with mitigation hierarchy i.e., being avoided in the first instance. As such, we advise that in its current form the policy wording appears contrary to Paragraph 186a of the National Planning Policy Framework, wherein significant harm to biodiversity resulting from a development should be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for.

Natural England would advise that amendments should be made to the policy wording regarding potential impacts to International Sites, and the manner in which potential adverse impacts to them should be assessed. In its current form, we do not consider that it accurately reflects the iterative process by which potential adverse impacts to a European site should be considered.

Natural England acknowledge that the consultation draft was finalised prior to the recent duty on relevant authorities (as enshrined within the Levelling-up and Regeneration Act 2023) to “*further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty*” when exercising their functions coming into effect. In addition, we do not consider that it fully reflects Paragraph 182 of the National Planning Policy Framework which states that development should be sensitively located and designed to avoid or minimise adverse impacts on designated areas. We therefore recommend the Policy is updated to reflect the additional duty and the requirements of the National Planning Policy Framework.

Currently, Natural England does not consider that the current policy wording wholly reflects the exceptional circumstances in which development on land within or outside of a Site of Special Scientific Interest (SSSI), and which is likely to have an adverse effect on it may be permitted. Once it has been clearly demonstrated that impacts have been considered in line with the mitigation hierarchy, and that permission is still to be granted (or identified within an update to Minerals and Waste Sites Plans), then consideration should be given to the ‘exceptional circumstances’ that may justify a proposal that has an adverse effect on a SSSI. We would however advise that as part of the exceptional circumstances test, Paragraph 186b stipulates that the “benefits of the development in the location proposed” should form part of this decision-making process, and that consideration should be given as to whether it can be located elsewhere instead.

Paragraph 186c of the National Planning Policy Framework states that “*development resulting in the loss of deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists*”. Natural England advise that the Policy wording in its current form could give rise to what are deemed to be ‘insignificant’ adverse impacts on ancient woodland. We would however advise that this appears to be contrary to the National Planning Policy Framework wherein development that results in a deterioration (or a loss) of irreplaceable habitats such as ancient woodland should be refused, unless there are wholly exceptional circumstances. We would therefore not consider it possible to assess either a loss or deterioration of an irreplaceable habitat to be insignificant. The National Planning Policy Framework also defines ancient woodland as “*ancient semi-natural woodland and plantations on ancient woodland sites*”. We would therefore advise that this definition should be included within this policy for the avoidance of doubt and to ensure its protection.

It is noted that within the current policy wording that Marine Conservation Zones (MCZ) are included within the Local Sites section of the policy. Natural England would however highlight that MCZs protect nationally important, rare or threatened habitats and species and should therefore, any impacts to them should be considered as being impacts to a site of national importance, rather than one of local importance. In addition, proposals that may adversely impact a MCZ must be compliant with the requirements of the Marine and Coastal Access Act 2009 in that it should not hinder the conservation objectives of the affected Marine Conservation Zone.

Q3. Please explain in the box below what change(s) you consider necessary to make the draft Kent Minerals and Waste Local Plan 2024-39 legally compliant and/or sound.

Please be precise as possible and explain why this change(s) would make the draft Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

In order to make the Plan sound, Natural England would recommend the following changes to the policy wording:

1. International Sites

*Minerals and/or waste proposals ~~located within or~~ **that are considered to have a ‘likely significant effect’** ~~to have any unacceptable adverse impact~~ **(either alone or in combination with other plans or projects)** on international designated sites, including Ramsar **sites**, Special Protection Areas and Special Areas of Conservation (‘National Site Network’ as defined by the Changes to the Habitats and Species Regulations 2017 and ‘Habitat Sites’ as defined by the NPPF), will need to be evaluated **as part of an ‘appropriate assessment’** ~~in combination with other projects and plans and be in~~*

accordance with established management objectives for the national sites network ('network objectives'). **Where an 'adverse effect on integrity' of an international designated site cannot be ruled out as a result of a proposal (that either seeks planning permission, or is allocated within the Minerals and Waste Sites Plan),** ~~Before any such proposal will be granted planning permission or identified in the Minerals and Waste Sites Plan,~~ it will need to be demonstrated that:

- a. there are no alternatives;
- b. there is a robust case established as to why there are imperative reasons of overriding public interest; and
- c. there is sufficient provision for adequate timely compensation.

before permission can be granted, or the allocation can be included within the Minerals and Waste Sites Plan.

2. National Sites

Designated National Landscapes have the highest status of protection in relation to landscape and scenic beauty. **When exercising or performing any functions in relation to, or so as to affect land, in a National Landscape, relevant authorities must seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape.** ~~Regard must be had to the purpose of the designation when exercising or performing any functions in relation to, or so as to affect land, in an AONB.~~ For the purposes of this policy, such functions include the determination of planning applications and the allocation of sites in a development plan.

Planning permission for major minerals and waste development in a designated National Landscape will be refused except in exceptional circumstances and where it can be demonstrated that it is in the public interest. In relation to other minerals or waste proposals in a National Landscape, great weight will be given to conserving and enhancing its landscape and scenic beauty. Proposals within the setting of a National Landscape should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

Proposals for minerals and/or waste development will be required to ensure that there is no ~~unacceptable~~ adverse impact on the integrity, character, appearance and function, biodiversity and geodiversity interests of sites of international, national and local importance, such that these proposals accord with the avoid, mitigate, compensate hierarchy. **Proposals in coastal locations that are considered likely to have an adverse impact upon Marine Conservation Zones should also accord with the avoid, mitigate and compensate hierarchy.**

Proposals for minerals and/or waste developments within or outside of designated Sites of Special Scientific Interest or National Nature Reserves, that are considered likely to

have any ~~unacceptable~~ adverse impact on a Site of Special Scientific Interest or National Nature Reserve, will not be granted planning permission or identified in updates to the Minerals Sites Plan and any Waste Sites Plan except in exceptional circumstances where it can be demonstrated that **impacts cannot be avoided in the first instance (through locating on an alternative site with less harmful impacts), or adequately mitigated, unless** there is an overriding need for the development and any impacts can be ~~mitigated~~ or compensated for, and:

- a. the benefits of the development **in the location proposed clearly** outweigh any impacts that it is likely to have on the features of the site that make it of special scientific interest; and
- b. the benefits of the development outweigh any impacts that it is likely to have on the national network of Sites of Special Scientific Interest.

Minerals and/or waste proposals located within or considered likely to have any ~~unacceptable~~ adverse impact on irreplaceable habitat such as Ancient Woodland **(including ancient semi-natural woodland and plantations on ancient woodland sites (PAWS))** and ancient or veteran trees will not be granted planning permission or identified in updates to the Minerals Sites Plan and any Waste Sites Plan unless the need for, and the benefits of the development in that location clearly outweigh any loss, justified by wholly exceptional reasons, and a suitable compensation strategy is in place.

3. Local Sites

Minerals and/or waste proposals within, or likely to have an ~~unacceptable~~ adverse impact on, the Local Sites listed below will not be granted planning permission, or identified in updates to the Minerals Sites Plan and any Waste Sites Plan, unless it can be demonstrated that there is an overriding need for the development and any impacts can be mitigated or compensated for, such that there is a net planning benefit:

- a) Local Wildlife Sites;
- b) Local Nature Reserves;
- c) Priority Habitats and Species;
- d) land that is of regional or local importance as a wildlife corridor or for the conservation and enhancement of geodiversity and biodiversity;
- e) Local Geological Sites;
- f) irreplaceable habitat including aged and veteran trees;
- g) Country Parks, common land and village greens and other important areas of open space or green areas within built-up areas.
- ~~h) Marine Conservation Zones~~

Q4. If you support the draft Kent Minerals and Waste Local Plan 2024-39, and wish to make any comments to that affect, please use the box below.

The Planning Inspector will determine whether hearing sessions are required. If they are, he/she will also decide the most appropriate procedure to hear from those who have indicated that they wish to participate at the hearing sessions during the examination.

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

- Yes, I wish to speak to the Inspector at any hearing sessions
- No, I wish to communicate through written representations
- 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:

Q2. Which part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation does this representation relate to? Please be specific in terms of paragraph numbers and document title. Please tell us in the box below.

DM 3 – Ecological Impact Assessment

Q2a. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be legally compliant? Select one option.

Yes
 No
 Don't Know

Q2b. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be sound? Select one option.

Yes
 No
 Don't Know

The Inspector must be satisfied that the Local Plan meets four soundness requirements: is 'positively prepared', is 'justified', 'effective' and 'consistent with national policy'. In the [Guidance on making a Representation](#) document you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound, please select the reason for this: Please select all that apply.

- Positively prepared
- Justified
- Effective
- Consistent with national policy

On the following pages, please explain why you think this part of the Plan is unsound or not legally compliant, and set out any changes you feel should be made to this part of the Plan to make the Plan sound and legally compliant.

Q2d. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound and/or not legally compliant, please explain why in the box below.

Please be precise and give as much detail as possible.

Natural England considers that the inclusion of the word 'unacceptable' is ambiguous and does not provide sufficient certainty as to how environmental impacts will be robustly assessed as being either acceptable or unacceptable. Additionally, we consider that in its current form, the policy wording may be contrary to Paragraph 186a of the National Planning Policy Framework, wherein significant harm to biodiversity resulting from a development should be avoided in the first instance (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for.

The current wording does not make any reference to avoiding impacts to the natural environment (through locating on an alternative site with less harmful impacts), and instead focuses on the mitigation and compensation stages of the mitigation hierarchy. As such, Natural England would advise that the current policy wording may be contrary to the National Planning Policy Framework and we would recommend that it is updated in order to be fully reflective of the mitigation hierarchy. In addition, given the protection afforded to irreplaceable habitats such as ancient woodland (including ancient semi-natural woodland and plantations on ancient woodland sites (PAWS)) within Paragraph 186c National Planning Policy Framework, we would advise that they should also be included within any ecological impact assessments that are undertaken.

Natural England would advise that under the Environment Act 2021, the delivery of biodiversity net gain is now a mandatory requirement for new development, rather than just 'major' development as currently proposed within the policy wording. We would therefore recommend that it should be amended in order to accurately reflect this.

Q3. Please explain in the box below what change(s) you consider necessary to make the draft Kent Minerals and Waste Local Plan 2024-39 legally compliant and/or sound.

Please be precise as possible and explain why this change(s) would make the draft Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

In order to make the Plan sound, Natural England would recommend the following changes to the policy wording:

Ecological Impact Assessment

Proposals for minerals and waste developments will be required to ensure that they result in no ~~unacceptable~~ adverse impacts on Kent's important biodiversity assets. These include internationally, nationally and locally designated sites, internationally and nationally protected species, **irreplaceable habitats such as ancient woodland (including ancient semi-natural woodland and plantations on ancient woodland sites (PAWS))** and habitats and species of principal importance for the conservation, protection and enhancement of biodiversity, geodiversity and habitats and species identified in the Kent Nature Partnership Biodiversity Strategy 2020 to 2045.

Proposals that are likely to have ~~unacceptable~~ adverse impacts upon important geodiversity and biodiversity assets will need to demonstrate that an adequate level of ecological assessment has been undertaken and should provide a positive contribution to the protection, enhancement, creation and management of biodiversity. Such proposals will only be granted planning permission following:

1. an ecological assessment of the site, including preliminary ecological appraisal and, where likely presence is identified, specific protected species surveys;
2. consideration of the **exceptional circumstances that clearly demonstrate the** need for, and benefits of, the development and the reasons for locating the development in its proposed location, **that clearly outweigh its impacts, as well as a clear justification as to why the proposed development cannot be located at an alternative site with less harmful impacts.**
3. **Where impacts cannot be avoided,** ~~the~~ **identification and securing of** measures **required** to mitigate any adverse impacts (direct, indirect and cumulative) **should be identified and appropriately secured;** and,
4. **finally, as a last resort,** ~~the identification and securing of compensatory measures where adverse impacts cannot be avoided or mitigated for,~~ **then compensatory measures should be identified and secured.**

All development shall achieve a net gain in biodiversity value in accordance with the requirements of the NPPF. All ~~major~~ development shall deliver at least a 10% net gain in biodiversity value with an expectation that the maximum practicable net gain is achieved. All planning applications must be supported by a Biodiversity Net Gain Plan and relevant supporting reports that demonstrate net gain will be achieved, implemented, managed and maintained.

Restoration of mineral extraction sites for end uses that limit options to maximise biodiversity gain, may still be acceptable, provided the restoration achieves the minimum requirements and it can be demonstrated that the benefits of the restoration proposed

would help achieve other objectives within the Development Plan that can be balanced against the need to maximise biodiversity net gain.

Q4. If you support the draft Kent Minerals and Waste Local Plan 2024-39, and wish to make any comments to that affect, please use the box below.

The Planning Inspector will determine whether hearing sessions are required. If they are, he/she will also decide the most appropriate procedure to hear from those who have indicated that they wish to participate at the hearing sessions during the examination.

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

- Yes, I wish to speak to the Inspector at any hearing sessions
- No, I wish to communicate through written representations
- 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:

Q2. Which part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation does this representation relate to? Please be specific in terms of paragraph numbers and document title. Please tell us in the box below.

DM9 – Prior Extraction

Q2a. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be legally compliant? Select one option.

Yes
 No
 Don't Know

Q2b. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be sound? Select one option.

Yes
 No
 Don't Know

The Inspector must be satisfied that the Local Plan meets four soundness requirements: is 'positively prepared', is 'justified', 'effective' and 'consistent with national policy'. In the [Guidance on making a Representation](#) document you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound, please select the reason for this: Please select all that apply.

- Positively prepared
- Justified
- Effective
- Consistent with national policy

On the following pages, please explain why you think this part of the Plan is unsound or not legally compliant, and set out any changes you feel should be made to this part of the Plan to make the Plan sound and legally compliant.

Q2d. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound and/or not legally compliant, please explain why in the box below.

Please be precise and give as much detail as possible.

Natural England considers that the inclusion of the word 'unacceptable' is ambiguous and does not provide sufficient certainty as to how environmental impacts will be robustly assessed as being either acceptable or unacceptable. Additionally, we advise that in its current form, the policy wording may be contrary to Paragraph 186a of the National Planning Policy Framework, wherein significant harm to biodiversity resulting from a development should be avoided in the first instance (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for.

Q3. Please explain in the box below what change(s) you consider necessary to make the draft Kent Minerals and Waste Local Plan 2024-39 legally compliant and/or sound.

Please be precise as possible and explain why this change(s) would make the draft Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

In order to make the Plan sound, Natural England would recommend the following changes to the policy wording:

Prior Extraction of Minerals in Advance of Surface Development

Planning permission for, or incorporating, mineral extraction in advance of development will be granted where the resources would otherwise be permanently sterilised provided that:

the mineral extraction operations are only for a temporary period linked to the timing of the associated surface development; and, the proposal will not cause unacceptable adverse impacts to the environment or communities.

Where planning permission is granted for the prior extraction of minerals, conditions will be imposed, and if appropriate, legal agreements will be entered into to ensure that the site can be adequately restored to a satisfactory after-use should the main development be delayed or not implemented.

Q4. If you support the draft Kent Minerals and Waste Local Plan 2024-39, and wish to make any comments to that affect, please use the box below.

The Planning Inspector will determine whether hearing sessions are required. If they are, he/she will also decide the most appropriate procedure to hear from those who have indicated that they wish to participate at the hearing sessions during the examination.

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

- Yes, I wish to speak to the Inspector at any hearing sessions
- No, I wish to communicate through written representations
- 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:

Q2. Which part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation does this representation relate to? Please be specific in terms of paragraph numbers and document title. Please tell us in the box below.

DM12 – Cumulative Impact

Q2a. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be legally compliant? Select one option.

Yes
 No
 Don't Know

Q2b. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be sound? Select one option.

Yes
 No
 Don't Know

The Inspector must be satisfied that the Local Plan meets four soundness requirements: is 'positively prepared', is 'justified', 'effective' and 'consistent with national policy'. In the [Guidance on making a Representation](#) document you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound, please select the reason for this: Please select all that apply.

- Positively prepared
- Justified
- Effective
- Consistent with national policy

On the following pages, please explain why you think this part of the Plan is unsound or not legally compliant, and set out any changes you feel should be made to this part of the Plan to make the Plan sound and legally compliant.

Q2d. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound and/or not legally compliant, please explain why in the box below.

Please be precise and give as much detail as possible.

Natural England considers that the inclusion of the word 'unacceptable' is ambiguous and does not provide sufficient certainty as to how environmental impacts will be robustly assessed as being either acceptable or unacceptable. Additionally, we consider that in its current form, the policy wording may be contrary to Paragraph 186a of the National Planning Policy Framework, wherein significant harm to biodiversity resulting from a development should be avoided in the first instance (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for.

Q3. Please explain in the box below what change(s) you consider necessary to make the draft Kent Minerals and Waste Local Plan 2024-39 legally compliant and/or sound.

Please be precise as possible and explain why this change(s) would make the draft Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

In order to make the Plan sound, Natural England would recommend the following changes to the policy wording:

Cumulative Impact

Planning permission will be granted for minerals and waste development where it does not result in an ~~unacceptable~~ adverse, cumulative impact on the environment or communities. This is in relation to the collective effect of different impacts of an individual proposal, or in relation to the effects of a number of developments occurring concurrently and/or successively.

Q4. If you support the draft Kent Minerals and Waste Local Plan 2024-39, and wish to make any comments to that affect, please use the box below.

The Planning Inspector will determine whether hearing sessions are required. If they are, he/she will also decide the most appropriate procedure to hear from those who have indicated that they wish to participate at the hearing sessions during the examination.

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 checked="" type="checkbox"/> | No, I wish to communicate through written representations |
| <input 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:

Q2. Which part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation does this representation relate to? Please be specific in terms of paragraph numbers and document title. Please tell us in the box below.

DM13 – Transportation of Minerals and Waste

Q2a. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be legally compliant? Select one option.

Yes
 No
 Don't Know

Q2b. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be sound? Select one option.

Yes
 No
 Don't Know

The Inspector must be satisfied that the Local Plan meets four soundness requirements: is 'positively prepared', is 'justified', 'effective' and 'consistent with national policy'. In the [Guidance on making a Representation](#) document you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound, please select the reason for this: Please select all that apply.

- Positively prepared
- Justified
- Effective
- Consistent with national policy

On the following pages, please explain why you think this part of the Plan is unsound or not legally compliant, and set out any changes you feel should be made to this part of the Plan to make the Plan sound and legally compliant.

Q2d. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound and/or not legally compliant, please explain why in the box below.

Please be precise and give as much detail as possible.

Natural England considers that the inclusion of the words/phrase 'unacceptable' and 'as far as practicable' are ambiguous and do not provide sufficient certainty as to how environmental impacts will be robustly assessed as being either acceptable or unacceptable, or how appropriate measures will be taken to avoid impacts to biodiversity assets. Given the potential adverse impacts of transported generated emissions on air quality and biodiversity assets, we would advise that consideration should be given as to what steps can be taken in order to ensure that these impacts are avoided in the first instance.

Whilst we recognise that it may not be possible to wholly avoid adverse impacts to biodiversity (due to the existing/future technological barriers within the transport industry), we do not believe that in its current form, the policy wording places sufficient emphasis on avoiding impacts in the first instance. As such, we advise that it may be contrary to Paragraph 186a of the National Planning Policy Framework, wherein significant harm to biodiversity resulting from a development should be avoided in the first instance (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for.

Q3. Please explain in the box below what change(s) you consider necessary to make the draft Kent Minerals and Waste Local Plan 2024-39 legally compliant and/or sound.

Please be precise as possible and explain why this change(s) would make the draft Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

In order to make the Plan sound, Natural England would recommend the following changes to the policy wording:

Transportation of Minerals and Waste

Minerals and waste development will be required to demonstrate that emissions associated with road transport movements are minimised ~~as far as practicable~~ and by preference being given to non-road modes of transport. Where development requires road transport, proposals will be required to demonstrate that:

1. *the proposed access arrangements are safe and appropriate to the scale and nature of movements associated with the proposed development such that the impact of traffic generated is not detrimental to road safety;*

2. *the highway network is able to accommodate the traffic flows that would be generated, as demonstrated through a transport assessment, and the impact of traffic generated does not have an unacceptable adverse impact on the environment or local community; and*
3. *emission control and reduction measures, such as deployment of low emission vehicles and environmentally sustainable vehicle technologies, installation of electric vehicle charging points (where appropriate) and vehicle scheduling to avoid movements in peak hours. Particular emphasis will be given to such measures where development is proposed within an AQMA or in a location where impacts on an AQMA will result. (Figure 15).*

Q4. If you support the draft Kent Minerals and Waste Local Plan 2024-39, and wish to make any comments to that affect, please use the box below.

The Planning Inspector will determine whether hearing sessions are required. If they are, he/she will also decide the most appropriate procedure to hear from those who have indicated that they wish to participate at the hearing sessions during the examination.

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

- | | |
|---|---|
| | Yes, I wish to speak to the Inspector at any hearing sessions |
| X | No, I wish to communicate through written representations |
| | 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:



Q2. Which part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation does this representation relate to? Please be specific in terms of paragraph numbers and document title. Please tell us in the box below.

DM19 – Restoration, Aftercare and After-use

Q2a. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be legally compliant? Select one option.

Yes
 No
 Don't Know

Q2b. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be sound? Select one option.

Yes
 No
 Don't Know

The Inspector must be satisfied that the Local Plan meets four soundness requirements: is 'positively prepared', is 'justified', 'effective' and 'consistent with national policy'. In the [Guidance on making a Representation](#) document you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound, please select the reason for this: Please select all that apply.

- Positively prepared
- Justified
- Effective
- Consistent with national policy

On the following pages, please explain why you think this part of the Plan is unsound or not legally compliant, and set out any changes you feel should be made to this part of the Plan to make the Plan sound and legally compliant.

Q2d. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound and/or not legally compliant, please explain why in the box below.

Please be precise and give as much detail as possible.

Natural England acknowledge that the consultation draft was finalised prior to the recent duty on relevant authorities when exercising their functions (as enshrined within the Levelling-up and Regeneration Act 2023) to “*further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty*” coming into effect. In addition, we do not consider that it fully reflects Paragraph 182 of the National Planning Policy Framework which states that development should be sensitively located and designed to avoid or minimise adverse impacts on designated areas. We therefore recommend the Policy is updated to reflect the additional duty and the requirements of the National Planning Policy Framework

Q3. Please explain in the box below what change(s) you consider necessary to make the draft Kent Minerals and Waste Local Plan 2024-39 legally compliant and/or sound.

Please be precise as possible and explain why this change(s) would make the draft Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

In order to make the Plan sound, and reflect the recent Levelling Up and Regeneration Act requirements, Natural England would recommend the following changes to the policy wording:

Restoration, Aftercare and After-use

Planning permission for minerals extraction and temporary waste management development will be granted where satisfactory provision has been made for the highest possible standard of restoration and aftercare such that the intended after-use of the site is achieved in a timely manner, including where necessary for its long-term management.

Restoration plans should be submitted with the planning application which reflect the proposed after-use, be carried out to a standard that reflects best practice and provides for restoration and aftercare at the earliest opportunity, Restoration proposals must deliver sustainable afteruses that benefit the Kent community, economically, socially or environmentally. All development should achieve at least 10% biodiversity net gain and demonstrate how maximum practicable on site biodiversity net gain shall result from the development.

Restoration of mineral extraction sites for end uses that do not maximise biodiversity gain, but still achieve the mandatory minimum, may be acceptable if it is demonstrated that the benefits of the restoration would help achieve other objectives of the Development Plan that in the view of the planning authority outweigh the achievement of maximum biodiversity net gain.

Where appropriate, restoration plans should address the following issues in relation to the restoration, aftercare and after-use of minerals extraction and temporary waste management development:

- 1. a site-based landscape strategy for the restoration scheme **that reflects the local landscape character, and where applicable, seeks to further the conservation and scenic beauty of a designated National Landscape**;*
- 2. the key landscape and biodiversity opportunities and constraints ensuring connectivity with surrounding landscape and habitats;*
- 3. the geological, archaeological and historic heritage and landscape features and their settings;*
- 4. the site boundaries and areas identified for soil and overburden storage;*
- 5. an assessment of soil resources and their removal, handling and storage;*
- 6. an assessment of the overburden to be removed and stored;*
- 7. the type and depth of workings and information relating to the water table;*
- 8. storage locations and quantities of waste/fill materials and quantities and types of waste/fill involved;*
- 9. proposed infilling operations, sources and types of fill material;*
- 10. the arrangements for monitoring and the control and management of landfill gas;*
- 11. consideration of land stability after restoration;*
- 12. directions and phasing of working and restoration and how they are integrated into the working scheme;*
- 13. the need for and provision of additional screening taking account of degrees of visual exposure;*
- 14. details of the proposed final landform including pre and post settlement levels*

15. *types, quantities and source of soils or soil making materials to be used;*
16. *a methodology for management of soils to ensure that the pre-development soil quality is maintained;*
17. *proposals for meeting and where relevant exceeding, biodiversity net gain targets, including those outlined in the Kent Nature Partnership Biodiversity Strategy 2020-45, Biodiversity Opportunity Areas, Areas of Outstanding Natural Beauty Management Plans and the Local Nature Recovery Strategy;*
18. *removal of all buildings, plant, structures, accesses and hardstanding not required for long term management of the site;*
19. *planting of new native woodlands;*
20. *installation of drainage to enable high quality restoration and after-use;*
21. *measures to incorporate flood risk mitigation opportunities and avoid unacceptable impacts on groundwater;*
22. *details of the seeding of grass or other crops and planting of trees, shrubs and hedges;*
23. *a programme for the long-term management and aftercare of the restored sites to include details of vegetation establishment, vegetation management, biodiversity habitat management, field drainage, irrigation and watering facilities;*
24. *the restoration of the majority of the site back to agriculture, if the site consists of the best and most versatile agricultural land;*
25. *the potential for financial guarantees such as bonds in exceptional circumstances where their use can be justified to secure restoration objectives. Aftercare schemes should incorporate an aftercare period of at least five years. Where appropriate, voluntary longer periods for certain uses will be sought through agreement between the applicant and minerals planning authority.*

Q4. If you support the draft Kent Minerals and Waste Local Plan 2024-39, and wish to make any comments to that affect, please use the box below.

The Planning Inspector will determine whether hearing sessions are required. If they are, he/she will also decide the most appropriate procedure to hear from those who have indicated that they wish to participate at the hearing sessions during the examination.

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

- Yes, I wish to speak to the Inspector at any hearing sessions
- No, I wish to communicate through written representations
- 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:

Q2. Which part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation does this representation relate to? Please be specific in terms of paragraph numbers and document title. Please tell us in the box below.

DM 20 – Ancillary Development

Q2a. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be legally compliant? Select one option.

Yes

No

Don't Know

Q2b. Do you consider this part of the draft Kent Minerals and Waste Local Plan 2024-39 or element of its preparation to be sound? Select one option.

Yes

No

Don't Know

The Inspector must be satisfied that the Local Plan meets four soundness requirements: is 'positively prepared', is 'justified', 'effective' and 'consistent with national policy'. In the [Guidance on making a Representation](#) document you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound, please select the reason for this: Please select all that apply.

Positively prepared

Justified

Effective

Consistent with national policy

On the following pages, please explain why you think this part of the Plan is unsound or not legally compliant, and set out any changes you feel should be made to this part of the Plan to make the Plan sound and legally compliant.

Q2d. If you consider the draft Kent Minerals and Waste Local Plan 2024-39 to be unsound and/or not legally compliant, please explain why in the box below.

Please be precise and give as much detail as possible.

It is Natural England's opinion that the current policy wording could be strengthened to fully ensure that environmental impacts are avoided in the first instance (as outlined within Paragraph 186a of the National Planning Policy Framework). Whilst we support the ambition to deliver development that can simultaneously deliver environmental benefits, we would advise that it should not be delivered at the detriment of other environmental assets. Instead, development should be delivered in line with the mitigation hierarchy wherein environmental impacts are avoided in the first instance (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for.

Q3. Please explain in the box below what change(s) you consider necessary to make the draft Kent Minerals and Waste Local Plan 2024-39 legally compliant and/or sound.

Please be precise as possible and explain why this change(s) would make the draft Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

In order to make the Plan sound, Natural England would recommend the following changes to the policy wording:

Ancillary Development

Proposals for ancillary development within or in close proximity to mineral and waste development will be granted planning permission provided that:

1. *the proposal is necessary to enable the main development to proceed or operate successfully;*
2. *it has been demonstrated that there are environmental benefits in providing a close link between the ancillary development and the existing permitted uses at the site that outweigh any environmental and community impacts from the proposed development. Where permission is granted, the operation and retention of the ancillary development will be limited to the life of the main mineral or waste facility and shall be removed to enable the agreed site restoration.*

Q4. If you support the draft Kent Minerals and Waste Local Plan 2024-39, and wish to make any comments to that affect, please use the box below.

The Planning Inspector will determine whether hearing sessions are required. If they are, he/she will also decide the most appropriate procedure to hear from those who have indicated that they wish to participate at the hearing sessions during the examination.

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 checked="" type="checkbox"/> | No, I wish to communicate through written representations |
| <input 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:

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.

Annex A – Natural England general advice

Protected Landscapes

Paragraph 182 of the [National Planning Policy Framework](#) (NPPF) requires great weight to be given to conserving and enhancing landscape and scenic beauty within Areas of Outstanding Natural Beauty (known as National Landscapes), National Parks, and the Broads and states that the scale and extent of development within all these areas should be limited. Paragraph 183 requires exceptional circumstances to be demonstrated to justify major development within a designated landscape and sets out criteria which should be applied in considering relevant development proposals. [Section 245](#) of the Levelling Up and Regeneration Act 2023 places a duty on relevant authorities (including local planning authorities) to seek to further the statutory purposes of a National Park, the Broads or an Area of Outstanding Natural Beauty in England in exercising their functions. This duty also applies to proposals outside the designated area but impacting on its natural beauty.

The local planning authority should carefully consider any impacts on the statutory purposes of protected landscapes and their settings in line with the NPPF, relevant development plan policies and the Section 245 duty. The relevant National Landscape Partnership or Conservation Board may be able to offer advice on the impacts of the proposal on the natural beauty of the area and the aims and objectives of the statutory management plan, as well as environmental enhancement opportunities. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to development and its capacity to accommodate proposed development.

Wider landscapes

Paragraph 180 of the NPPF highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland, or dry-stone walls) could be incorporated into the development to respond to and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape and Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the [Landscape Institute](#) Guidelines for Landscape and Visual Impact Assessment for further guidance.

Biodiversity duty

The local planning authority has a [duty](#) to conserve and enhance biodiversity as part of its decision making. Further information is available [here](#).

Designated nature conservation sites

Paragraphs 186-188 of the NPPF set out the principles for determining applications impacting on Sites of Special Scientific Interest (SSSI) and habitats sites. Both the direct and indirect impacts of the development should be considered. A Habitats Regulations Assessment is needed where there is a likely significant effect on a habitats site and Natural England must be consulted on '[appropriate assessments](#)'. Natural England must also be consulted where development is in or likely to affect a SSSI and provides advice on potential impacts on SSSIs either via [Impact Risk Zones](#) or as standard or bespoke consultation responses.

Protected Species

Natural England has produced [standing advice](#) to help planning authorities understand the impact of particular developments on protected species. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances. A protected species [licence](#) may be required in certain cases.

Annex A – Natural England general advice

Local sites and priority habitats and species

The local planning authority should consider the impacts of the proposed development on any local wildlife or geodiversity site, in line with paragraphs 180, 181 and 185 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity to help nature's recovery. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies. Emerging [Local Nature Recovery Strategies](#) may also provide further useful information.

Priority habitats and species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest on the Magic website or as Local Wildlife Sites. A list of priority habitats and species can be found on [Gov.uk](#).

Natural England does not routinely hold species data. Such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

Biodiversity and wider environmental gains

Development should provide net gains for biodiversity in line with the NPPF paragraphs 180(d), 185 and 186. Major development (defined in the [NPPF glossary](#)) is required by law to deliver a biodiversity gain of at least 10% from 12 February 2024 and this requirement is expected to be extended to smaller scale development in spring 2024. For nationally significant infrastructure projects (NSIPs), it is anticipated that the requirement for biodiversity net gain will be implemented from 2025.

Further information on biodiversity net gain, including [draft Planning Practice Guidance](#), can be found [here](#).

The statutory [Biodiversity Metric](#) should be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. For small development sites, the [Small Sites Metric](#) may be used. This is a simplified version of the [Biodiversity Metric](#) and is designed for use where certain criteria are met.

The mitigation hierarchy as set out in paragraph 186 of the NPPF should be followed to firstly consider what existing habitats within the site can be retained or enhanced. Where on-site measures are not possible, provision off-site will need to be considered.

Development also provides opportunities to secure wider biodiversity enhancements and environmental gains, as outlined in the NPPF (paragraphs 8, 74, 108, 124, 180, 181 and 186). Opportunities for enhancement might include incorporating features to support specific species within the design of new buildings such as swift or bat boxes or designing lighting to encourage wildlife.

Natural England's [Environmental Benefits from Nature tool](#) may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside the [Biodiversity Metric](#) and is available as a beta test version.

Further information on biodiversity net gain, the mitigation hierarchy and wider environmental net gain can be found in government [Planning Practice Guidance for the natural environment](#).

Annex A – Natural England general advice

Ancient woodland, ancient and veteran trees

The local planning authority should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 186 of the NPPF. Natural England maintains the Ancient Woodland [Inventory](#) which can help identify ancient woodland. Natural England and the Forestry Commission have produced [standing advice](#) for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 180 and 181). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in [GOV.UK guidance](#) Agricultural Land Classification information is available on the [Magic](#) website and the [Data.Gov.uk](#) website

Guidance on soil protection is available in the Defra [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#), and we recommend its use in the design and construction of development, including any planning conditions. For mineral working and landfilling, separate guidance on soil protection for site restoration and aftercare is available on [Gov.uk](#) website. Detailed guidance on soil handling for mineral sites is contained in the Institute of Quarrying [Good Practice Guide for Handling Soils in Mineral Workings](#).

Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

Green Infrastructure

Natural England's [Green Infrastructure Framework](#) provides evidence-based advice and tools on how to design, deliver and manage green and blue infrastructure (GI). GI should create and maintain green liveable places that enable people to experience and connect with nature, and that offer everyone, wherever they live, access to good quality parks, greenspaces, recreational, walking and cycling routes that are inclusive, safe, welcoming, well-managed and accessible for all. GI provision should enhance ecological networks, support ecosystems services and connect as a living network at local, regional and national scales.

Development should be designed to meet the [15 Green Infrastructure Principles](#). The GI Standards can be used to inform the quality, quantity and type of GI to be provided. Major development should have a GI plan including a long-term delivery and management plan. Relevant aspects of local authority GI strategies should be delivered where appropriate.

GI mapping resources are available [here](#) and [here](#). These can be used to help assess deficiencies in greenspace provision and identify priority locations for new GI provision.

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths, together with the creation of new footpaths and bridleways should be considered. Links to urban fringe areas should also be explored to strengthen access networks, reduce fragmentation, and promote wider green infrastructure.

Annex A – Natural England general advice

Rights of Way, Access land, Coastal access and National Trails

Paragraphs 104 and 180 of the NPPF highlight the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

Further information is set out in Planning Practice Guidance on the [natural environment](#)

Date: 24 April 2024



Sharon Thompson
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ME14 1XX

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Electra Way
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T 0300 060 3900

BY EMAIL ONLY

Dear Sharon,

Planning consultation: Kent Minerals and Waste Local Plan 2024-39

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.

Natural England welcomes the ongoing opportunity to work closely with your authority in order to ensure that the proposed Kent Minerals and Waste Local Plan 2024-39 is sound and is reflective of environmental policies.

It is acknowledged that the advice contained within our response to the Regulation 19 consultation (our ref: 464024, 29th February 2024) could give cause to believe that Natural England finds the Plan unsound in its current form. However, we would like to reiterate that Natural England does not find the Plan itself unsound; instead, the advice was provided in order to highlight areas of the current Plan that we believed would benefit from further clarification, and in some instances, amendments to the proposed policy wording.

This advice was provided with the intention of ensuring that policies that are related to our remit accurately reflect national planning policy and the policy protection afforded to landscape, biodiversity, and geodiversity assets. Natural England is satisfied that, subject to the amendments outlined within the "Statement of Common Ground Between Kent County Council and Natural England concerning the Kent Minerals and Waste Local Plan 2024-39" that any concerns we raised within our response to the Regulation 19 response have been adequately addressed.

Should you have any further queries please contact me at luke.hasler@naturalengland.org.uk.

Yours sincerely

Luke Hasler
Sussex & Kent Area Team

A handwritten signature in black ink that reads "L. Hasler".