

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Date: 27 November 2024
Our ref: 491130



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

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

T 0300 060 3900

BY EMAIL ONLY

Dear Kent County Council,

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

Thank you for your consultation on the above dated 17 October 2024 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.

Natural England welcomes the opportunity to provide our comments on the Proposed Main Modifications for the Kent Minerals and Waste Local Plan 2024 - 2039. A copy of our comments can be found within the provided proforma document, as appended to this letter. We have only addressed policies within our remit, with detailed comments only for those Policies with associated Main Modifications. Where we have concerns with certain Policies, we have provided amendments to help ensure that the Local Plan update can be considered as being sound and legally compliant.

Habitats Regulations Assessment (HRA)

Natural England remain satisfied that there are no apparent Habitats Regulations issues resulting from the proposed Plan and have no further comments to make on the HRA at this time.

Sustainability Appraisal

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

Previous Advice under Regulation 19

Whilst we are providing our specific comments in relation to the Main Modifications (October 2024), and welcome those which address our previous comments, we wish to highlight that our previous

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



advice provided under Regulation 19 (our reference 464024) still stands for the following Policies, where we note that no changes have been proposed at this stage:

- **Policies CSM8, CSM10, CSM11, DM20:**
We continue to be concerned by the lack of emphasis on the need to avoid impacts in the first instance. We do however note that strong reference has now been made to the mitigation hierarchy process under Policy DM2, by which other Policies will be assessed when considering planning applications.
- **Policy CSM12:**
We continue to recommend the inclusion of a reference to environmental policies, alongside employment and regeneration policies, to ensure that planning permission for the transport of minerals has due regard to, and is compatible with, the environmental policies set out in the development plan.
- **Policy DM1:**
We continue to be concerned that the use of the word “*minimise*” (in the context of potential losses of Best and Most Versatile Agricultural Land (BMV)) may not fully reflect Paragraph 180 of the National Planning Policy Framework. We advise that impacts to BMV land should be avoided in the first instance. Where losses cannot be avoided, then we would recommend that losses should be prioritised in areas that are of the lowest agricultural value instead, as outlined within Footnote 62 of the National Planning Policy Framework. As such, we would continue to support the inclusion of our suggested wording at Regulation 19 in order to ensure high quality soils are protected as far as possible.

Statement of Common Ground

We wish to note and draw your attention to the Statement of Common Ground (SoCG) signed between Kent County Council and Natural England (April 2024). This outlines our agreement that the term ‘*unacceptable*’, before ‘*adverse impact*’ is included, and are to be retained, in Policies CSM8, CSM9, CSM10, CSW6, DM9, DM12, DM13. This is to acknowledge that in certain exceptional 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. Furthermore, the term ‘*so far as is practicable*’ and ‘*practicable*’ used in policies CSM10 and DM13 are to be retained.

Natural England is therefore satisfied that the wording referenced within the SoCG is acceptable, despite our earlier concerns, on the basis that any potential ‘*unacceptable*’ impacts will be appropriately assessed against Policies DM2, DM3 and the mitigation hierarchy. As such, we consider the wording to be in line with the requirements of the National Planning Policy Framework as detailed in our SoCG and we are satisfied that the policy wording is now sound.

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

Yours faithfully,

Ruby Musgrove-Ward
Higher Officer - Sustainable Development
Area Team 14 - Sussex and Kent
Natural England

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Representation Form

We welcome your comments on the Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39.

The Kent Minerals and Waste Local Plan 2024-39 was submitted to the Secretary of State for independent examination on 17 May 2024. The appointed Planning Inspector has now considered all representations made regarding the documents and discussed all relevant matters and issues during hearings in September 2024, and, in light of this, a number of Main Modifications have been identified that are required to ensure the Local Plan is sound and legally compliant.

Before the Inspector can make final recommendations on the proposed Main Modifications, they must be subject to public consultation.

An appraisal of the impacts of the Main Modifications on social, economic and environmental objectives has been undertaken and included in a Sustainability Appraisal (SA) which has also been published.

Please use this form to tell us your views on the soundness and legal compliance of the proposed Main Modifications and the accompanying Sustainability Appraisal. Your representations will be collated and passed on to the Planning Inspector who will then consider what further changes may need to be made to the draft Kent Minerals and Waste Local Plan 2024-39 before it can be adopted.

Once completed you can upload this form online at www.kent.gov.uk/mineralsandwaste

If you are unable to upload the form, 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 28 November 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 proposed Main Modifications (MM) of the Kent Minerals and Waste Local Plan 2024-39, we would strongly recommend that you read [the Guidance Note](#).

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



This consultation specifically invites representations on the proposed Main Modifications and no other aspect of the Plan. 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 relating to the Main Modifications following this process. Please include all the information, evidence and supporting information necessary to support or justify your representation and any suggested change(s) to the Plan. After this stage, further submissions will only be invited at the request of the Planning Inspector.

Full representations will be submitted to the Planning Inspector. They 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.

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



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.

Ruby Musgrove-Ward

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.

Email: ruby.musgrove-ward@naturalengland.org.uk
Address: Natural England, International House, Dover Place, Ashford, TN23 1HU

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Section B - Representation

You will need to complete questions 2, 3 and 4 for each Main Modification (MM) that you wish to comment on. Please duplicate these questions as many times as required to cover each Main Modification that you wish to comment on. If you would rather not provide feedback on a specific part, please state 'no comment' and move on to the next question.

Q2. Which proposed Main Modification does this representation relate to? Please be specific in terms of MM number, paragraph and policy number (as applicable).

38	MM number
	Paragraph
CSW 6	Policy number

Q2a. Do you consider the Main Modification makes the Local Plan legally compliant? Please select one option.

X	Yes
	No
	Don't know

Q2b. Do you consider the Main Modification makes the Local Plan sound? Please select one option.

X	Yes
	No
	Don't know

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



The Inspector must be satisfied that the Local Plan meets four soundness requirements:

- is 'positively prepared',
- is 'justified',
- 'effective',
- 'consistent with national policy'.

In [the Guidance Note](#) you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the Main Modification to be unsound, please select the reason for this: Please select all that apply.

<input type="checkbox"/>	Not positively prepared
<input type="checkbox"/>	Not justified
<input type="checkbox"/>	Not effective
<input type="checkbox"/>	Not consistent with national policy

Q2d. If you consider this Main Modification 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.

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q3. In light of the above, please explain in the box below what change(s) you consider necessary to make the 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 Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

N/A

Q4. If you support the Main Modification and wish to make any comments to that affect, please use the box below.

Natural England welcomes the addition of “*National Landscapes (formerly known as Areas of Outstanding Natural Beauty (AONB))*”. Whilst this Policy does not make explicit reference to the recently revised duty on relevant authorities, under Section 85 of the updated Countryside and Rights of Way Act (Levelling Up and Regeneration Act 2023), i.e. “*seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty*”, we acknowledge that this is now included as a Main Modification to Policy DM2. Provided that the proposed Main Modifications to Policy DM2 are secured, Natural England are satisfied CSW6 is consistent with the enhanced landscape duty and that this policy is sound.

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q5. If you wish to make any further comments on the Main Modifications, please use the box below.

N/A

Q6. Do you have any comments on the Sustainability Appraisal October 2024? Please tell us in the box below.

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q7. Do you have any other comments?

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q2. Which proposed Main Modification does this representation relate to? Please be specific in terms of MM number, paragraph and policy number (as applicable).

43	MM number
6.15.2	Paragraph
CSW 15	Policy number

Q2a. Do you consider the Main Modification makes the Local Plan legally compliant? Please select one option.

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	Don't know

Q2b. Do you consider the Main Modification makes the Local Plan sound? Please select one option.

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	Don't know

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



The Inspector must be satisfied that the Local Plan meets four soundness requirements:

- is 'positively prepared',
- is 'justified',
- 'effective',
- 'consistent with national policy'.

In [the Guidance Note](#) you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the Main Modification to be unsound, please select the reason for this: Please select all that apply.

<input type="checkbox"/>	Not positively prepared
<input type="checkbox"/>	Not justified
<input type="checkbox"/>	Not effective
<input type="checkbox"/>	Not consistent with national policy

Q2d. If you consider this Main Modification 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.

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q3. In light of the above, please explain in the box below what change(s) you consider necessary to make the 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 Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

N/A

Q4. If you support the Main Modification and wish to make any comments to that affect, please use the box below.

Natural England supports the inclusion of policy wording that ensures any increase in nutrients are appropriately mitigated, and that nutrient neutrality is demonstrated where appropriate and in-line with the most up-to-date guidance. However, it is important to note, as per the latest guidance, Natural England's advice on achieving nutrient neutrality typically only currently applies to overnight accommodation, rather than other types of development (which should be considered on a case-by-case basis). Whilst we support the consideration of potential impacts to designated sites that are sensitive to increased levels of nutrients (such as the Stodmarsh designated sites), Natural England would not expect nutrient neutrality to be demonstrated for a Wastewater Treatment Works or sewage sludge treatment facilities. Instead, we would typically expect the nutrient load associated with any new overnight accommodation that connects to a Wastewater Treatment Works to be mitigated.

Nevertheless, we welcome this consideration to meet the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended), and recognition that Natural England should be consulted on nutrient neutrality matters.

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q5. If you wish to make any further comments on the Main Modifications, please use the box below.

N/A

Q6. Do you have any comments on the Sustainability Appraisal October 2024? Please tell us in the box below.

N/A

**Proposed Main Modifications to the Kent
Minerals and Waste Local Plan 2024-39
Consultation: 17 October to 28 November 2024**



Q7. Do you have any other comments?

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q2. Which proposed Main Modification does this representation relate to? Please be specific in terms of MM number, paragraph and policy number (as applicable).

48	MM number
	Paragraph
DM2	Policy number

Q2a. Do you consider the Main Modification makes the Local Plan legally compliant? Please select one option.

X	Yes
	No
	Don't know

Q2b. Do you consider the Main Modification makes the Local Plan sound? Please select one option.

X	Yes
	No
	Don't know

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



The Inspector must be satisfied that the Local Plan meets four soundness requirements:

- is 'positively prepared',
- is 'justified',
- 'effective',
- 'consistent with national policy'.

In [the Guidance Note](#) you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the Main Modification to be unsound, please select the reason for this: Please select all that apply.

<input type="checkbox"/>	Not positively prepared
<input type="checkbox"/>	Not justified
<input type="checkbox"/>	Not effective
<input type="checkbox"/>	Not consistent with national policy

Q2d. If you consider this Main Modification 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.

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q3. In light of the above, please explain in the box below what change(s) you consider necessary to make the 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 Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

N/A

Q4. If you support the Main Modification and wish to make any comments to that affect, please use the box below.

Natural England note that the proposed changes for this Main Modification appear to be in line with our Regulation 19 comments (our reference 464024) and the wording agreed under the Statement of Common Ground, signed between Kent County Council and Natural England (April 2024).

These changes include strengthened wording to demonstrate how environmental impacts will be robustly assessed, replacing “*unacceptable adverse impact*” with “*likely significant effect*” under international sites, and simply “*adverse impact*” under national sites. The Main Modification helps to emphasise that proposals will be required to ensure they are not likely to cause significant harm to designated sites and accord with the mitigation hierarchy. As such, we advise that in its current form the policy wording appears to be consistent with 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.

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Natural England support the amendments made to the policy wording regarding potential impacts to International Sites, and the manner in which potential adverse impacts to them should be assessed. Under the Modifications, it accurately reflects the iterative process by which potential adverse impacts to a European site should be considered.

We welcome the reference to the revised duty on relevant authorities, to “*seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty*”, which brings the Policy in line with Section 245 of the Levelling Up and Regeneration Act 2023.

As part of the exceptional circumstances test for proposed development on land within or outside of a Site of Special Scientific Interest (SSSI), Paragraph 186b of the National Planning Policy Framework stipulates that the “*benefits of the development in the location proposed*” should form part of the decision-making process, and that consideration should be given as to whether it can be located elsewhere instead. As such, we support the additional wording under national sites, that stipulates the need for avoidance in the first instance through consideration of locating on an alternative site with less harmful impacts. This highlights the need to demonstrate consideration of exceptional circumstances and the mitigation hierarchy.

Furthermore, we welcome the proposed changes to the irreplaceable habitat wording. Replacing “*unacceptable adverse impact*” with “*loss or deterioration*” brings this Policy in line with Paragraph 186c of the National Planning Policy Framework.

Marine Conservation Zones (MCZ) have been removed from the list of local sites, in line with our previous comments, and are instead referenced in the explanatory introduction text for this Policy. We would suggest that they are also mentioned under the national sites section of Policy DM2, to highlight their national importance, but are nevertheless satisfied that the Policy is sound in its current form.

Q5. If you wish to make any further comments on the Main Modifications, please use the box below.

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



**Q6. Do you have any comments on the Sustainability Appraisal October 2024?
Please tell us in the box below.**

N/A

Q7. Do you have any other comments?

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q2. Which proposed Main Modification does this representation relate to? Please be specific in terms of MM number, paragraph and policy number (as applicable).

52	MM number
	Paragraph
DM3	Policy number

Q2a. Do you consider the Main Modification makes the Local Plan legally compliant? Please select one option.

<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No
<input type="checkbox"/>	Don't know

Q2b. Do you consider the Main Modification makes the Local Plan sound? Please select one option.

<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No
<input type="checkbox"/>	Don't know

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



The Inspector must be satisfied that the Local Plan meets four soundness requirements:

- is 'positively prepared',
- is 'justified',
- 'effective',
- 'consistent with national policy'.

In [the Guidance Note](#) you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the Main Modification to be unsound, please select the reason for this: Please select all that apply.

<input type="checkbox"/>	Not positively prepared
<input type="checkbox"/>	Not justified
<input type="checkbox"/>	Not effective
<input checked="" type="checkbox"/>	Not consistent with national policy

Q2d. If you consider this Main Modification 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.

We note that our suggestion at Regulation 19 to reference "*clear justification as to why the proposed development cannot be located at an alternative site with less harmful impacts*", has instead been included under Policy DM2. As such, we are satisfied that these particular changes address our previous concerns.

However, there are apparent differences with the wording around Biodiversity Net Gain (BNG). As of 12 February 2024, BNG is mandatory in England under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). As such, developers must deliver a BNG of 10%, meaning a development will result in more or better-quality natural habitat than there was before the development. Natural England therefore advise that the wording reverts back to its Regulation 19 form (with the exception of the reference to "*major*"), in order to best capture the mandatory nature of this requirement.

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q3. In light of the above, please explain in the box below what change(s) you consider necessary to make the 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 Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

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.

Q4. If you support the Main Modification and wish to make any comments to that affect, please use the box below.

N/A

**Proposed Main Modifications to the Kent
Minerals and Waste Local Plan 2024-39
Consultation: 17 October to 28 November 2024**



Q5. If you wish to make any further comments on the Main Modifications, please use the box below.

N/A

Q6. Do you have any comments on the Sustainability Appraisal October 2024? Please tell us in the box below.

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q7. Do you have any other comments?

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q2. Which proposed Main Modification does this representation relate to? Please be specific in terms of MM number, paragraph and policy number (as applicable).

61 & 62	MM number
	Paragraph
DM13	Policy number

Q2a. Do you consider the Main Modification makes the Local Plan legally compliant? Please select one option.

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	Don't know

Q2b. Do you consider the Main Modification makes the Local Plan sound? Please select one option.

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	Don't know

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



The Inspector must be satisfied that the Local Plan meets four soundness requirements:

- is 'positively prepared',
- is 'justified',
- 'effective',
- 'consistent with national policy'.

In [the Guidance Note](#) you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the Main Modification to be unsound, please select the reason for this: Please select all that apply.

<input type="checkbox"/>	Not positively prepared
<input type="checkbox"/>	Not justified
<input type="checkbox"/>	Not effective
<input type="checkbox"/>	Not consistent with national policy

Q2d. If you consider this Main Modification 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.

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q3. In light of the above, please explain in the box below what change(s) you consider necessary to make the 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 Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

N/A

Q4. If you support the Main Modification and wish to make any comments to that affect, please use the box below.

Natural England note that the proposed changes for this Main Modification appear to be in line with the wording agreed under the Statement of Common Ground, signed between Kent County Council and Natural England (April 2024). As such, Natural England are satisfied that this Policy is sound on the basis that any consideration of '*unacceptable*' impacts and '*practicable*' minimisation are appropriately assessed against Policies DM2, DM3 and the mitigation hierarchy.

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39
Consultation: 17 October to 28 November 2024



Q5. If you wish to make any further comments on the Main Modifications, please use the box below.

N/A

Q6. Do you have any comments on the Sustainability Appraisal October 2024? Please tell us in the box below.

N/A

**Proposed Main Modifications to the Kent
Minerals and Waste Local Plan 2024-39
Consultation: 17 October to 28 November 2024**



Q7. Do you have any other comments?

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q2. Which proposed Main Modification does this representation relate to? Please be specific in terms of MM number, paragraph and policy number (as applicable).

68	MM number
	Paragraph
DM19	Policy number

Q2a. Do you consider the Main Modification makes the Local Plan legally compliant? Please select one option.

X	Yes
	No
	Don't know

Q2b. Do you consider the Main Modification makes the Local Plan sound? Please select one option.

X	Yes
	No
	Don't know

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



The Inspector must be satisfied that the Local Plan meets four soundness requirements:

- is 'positively prepared',
- is 'justified',
- 'effective',
- 'consistent with national policy'.

In [the Guidance Note](#) you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the Main Modification to be unsound, please select the reason for this: Please select all that apply.

<input type="checkbox"/>	Not positively prepared
<input type="checkbox"/>	Not justified
<input type="checkbox"/>	Not effective
<input type="checkbox"/>	Not consistent with national policy

Q2d. If you consider this Main Modification 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.

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q3. In light of the above, please explain in the box below what change(s) you consider necessary to make the 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 Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

N/A

Q4. If you support the Main Modification and wish to make any comments to that affect, please use the box below.

Natural England welcomes the addition of landscape wording, that states “*National Landscapes (formerly known as Areas of Outstanding Natural Beauty (AONB))*”. This recognises the latest designation terminology, which is intended to reflect their national importance. Whilst this Policy does not make reference to the revised duty on relevant authorities, under Section 245 of the Levelling Up and Regeneration Act 2023, to “*seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty*”, we acknowledge that this is now included under the Main Modification for Policy DM2. Provided that Policy DM2 is adopted as proposed under the Main Modifications and underpins all other Policies in consideration of landscape designations, Natural England are satisfied DM19 is consistent with the enhanced landscape duty.

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q5. If you wish to make any further comments on the Main Modifications, please use the box below.

N/A

Q6. Do you have any comments on the Sustainability Appraisal October 2024? Please tell us in the box below.

N/A

**Proposed Main Modifications to the Kent
Minerals and Waste Local Plan 2024-39
Consultation: 17 October to 28 November 2024**



Q7. Do you have any other comments?

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q2. Which proposed Main Modification does this representation relate to? Please be specific in terms of MM number, paragraph and policy number (as applicable).

69	MM number
	Paragraph
DM 19	Policy number

Q2a. Do you consider the Main Modification makes the Local Plan legally compliant? Please select one option.

X	Yes
	No
	Don't know

Q2b. Do you consider the Main Modification makes the Local Plan sound? Please select one option.

X	Yes
	No
	Don't know

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



The Inspector must be satisfied that the Local Plan meets four soundness requirements:

- is 'positively prepared',
- is 'justified',
- 'effective',
- 'consistent with national policy'.

In [the Guidance Note](#) you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the Main Modification to be unsound, please select the reason for this: Please select all that apply.

<input type="checkbox"/>	Not positively prepared
<input type="checkbox"/>	Not justified
<input type="checkbox"/>	Not effective
<input type="checkbox"/>	Not consistent with national policy

Q2d. If you consider this Main Modification 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.

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q3. In light of the above, please explain in the box below what change(s) you consider necessary to make the 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 Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

N/A

Q4. If you support the Main Modification and wish to make any comments to that affect, please use the box below.

Natural England supports the inclusion of policy wording that ensures aftercare schemes concerned with Biodiversity Net Gain (BNG) should be for at least 30 years. This is in accordance with Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021), which states that any BNG plan be maintained for at least 30 years after the development is completed.

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q5. If you wish to make any further comments on the Main Modifications, please use the box below.

N/A

Q6. Do you have any comments on the Sustainability Appraisal October 2024? Please tell us in the box below.

N/A

**Proposed Main Modifications to the Kent
Minerals and Waste Local Plan 2024-39
Consultation: 17 October to 28 November 2024**



Q7. Do you have any other comments?

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q2. Which proposed Main Modification does this representation relate to? Please be specific in terms of MM number, paragraph and policy number (as applicable).

75	MM number
	Paragraph
	Policy number

Q2a. Do you consider the Main Modification makes the Local Plan legally compliant? Please select one option.

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	Don't know

Q2b. Do you consider the Main Modification makes the Local Plan sound? Please select one option.

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	Don't know

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



The Inspector must be satisfied that the Local Plan meets four soundness requirements:

- is 'positively prepared',
- is 'justified',
- 'effective',
- 'consistent with national policy'.

In [the Guidance Note](#) you will find explanations on each of these four requirements and how they need to be met.

Q2c. If you consider the Main Modification to be unsound, please select the reason for this: Please select all that apply.

<input type="checkbox"/>	Not positively prepared
<input type="checkbox"/>	Not justified
<input type="checkbox"/>	Not effective
<input type="checkbox"/>	Not consistent with national policy

Q2d. If you consider this Main Modification 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.

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q3. In light of the above, please explain in the box below what change(s) you consider necessary to make the 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 Local Plan legally compliant and sound. Please also include in your response any suggested revised wording you feel is necessary.

N/A

Q4. If you support the Main Modification and wish to make any comments to that affect, please use the box below.

Natural England previously requested a strengthened definition of ancient woodland, to include ancient semi-natural woodland and plantations on ancient woodland sites (PAWS). We welcome its inclusion within the Glossary, such that any reference to ancient woodland is inclusive of ancient semi-natural woodland and PAWS. We continue to emphasise that development resulting in a deterioration (or loss) of irreplaceable habitats such as ancient woodland should be refused, unless there are *wholly exceptional* circumstances along with a suitable compensation strategy, and are content that the policy wording reflects sufficient consideration of this.

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39
Consultation: 17 October to 28 November 2024



Q5. If you wish to make any further comments on the Main Modifications, please use the box below.

N/A

Q6. Do you have any comments on the Sustainability Appraisal October 2024? Please tell us in the box below.

N/A

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



Q7. Do you have any other comments?

N/A

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. They 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 28 November 2024

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 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:

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



- 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.

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



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,

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



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

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



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.

Proposed Main Modifications to the Kent Minerals and Waste Local Plan 2024-39

Consultation: 17 October to 28 November 2024



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.