

Our Ref: NDA
26 February 2024

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

By Email to mwlp@kent.gov.uk

Dear Sir / Madam

KENT MINERALS AND WASTE LOCAL PLAN 2024-39

PRE-SUBMISSION DRAFT (REGULATION 19) PUBLIC CONSULTATION

Further to our recent discussions on the above we are writing to you on behalf of the Nuclear Decommissioning Authority (the NDA) and Nuclear Restoration Services (NRS), in respect of the current consultation on the Pre-Submission Draft version of the Kent Minerals and Waste Local Plan.

Avison Young is the appointed property advisor for the NDA and NRS and provides town planning advice across the NDA's UK-wide estate.

This representation is made in respect of the Dungeness 'A' Site, which is operated by Nuclear Restoration Services (NRS), formally known as Magnox Ltd (the Site Licence Company) on the NDA's behalf in order to carry out the decommissioning of the site (including waste management and, where appropriate, land remediation). In due course, the NDA and NRS will take over the equivalent responsibilities for Dungeness 'B' site, though that site is currently owned and operated by EDF as licensee.

Context

The NDA is the strategic authority responsible for managing the effective and efficient clean-up of the UK's nuclear legacy: including the Dungeness 'A' Nuclear Licensed Site ('NLS'). Land within the NLS is subject to decommissioning by Nuclear Restoration Services – the Site License Company.

The decommissioning of nuclear licensed sites is subject to various elements of legislation outside of the Town and Country Planning's remit, within a framework of national strategies that are the subject of regular review and consultation by the Secretary of State - these provide a framework and direction for Site License Companies undertaking decommissioning activities.

The Government sets high-level policies which are then implemented by the NDA through its published NDA Strategy (2021). A core objective contained within the NDA Strategy is to ensure that historic civil public-sector nuclear legacy sites are decommissioned safely, securely, cost effectively and in ways that protect the environment. The *NDA Strategy* therefore seeks to optimise reuse of land across all NDA sites¹: exploring how land can be utilised either when the NDA mission is complete or on an interim-basis prior to achieving the site end-state (aka an 'interim use').

¹ *Land Use Objective: To optimise the reuse of NDA sites* (NDA Strategy 2021, p.45)

As such, it is critical to the wider NDA mission that planning policy allows for appropriate interim, related and complementary uses to come forward at NDA sites in the medium and longer term.

Rather than waiting for the next use to be identified through market interest, the NDA are proactive in researching and raising awareness of reuse opportunities for all their sites; including opportunities for reusing land across Nuclear Licensed Sites to support other government priorities - such as Nationally Significant Infrastructure Projects ('NSIPs').

It is therefore considered that the *NDA Strategy* (2021) and key objectives contained within - including the optimal reuse of land across all Nuclear Licensed Sites - represents relevant national policy for the purposes of Section 19(2)(a) of the *Planning and Compulsory Purchase Act* (2004) in the preparation of local development plan documents:

"2. In preparing a local development document the local planning authority must have regard to—

(a) national policies and advice contained in guidance issued by the Secretary of State."

Accordingly, adopted and emerging planning policy documents relating to the Dungeness nuclear licensed sites within emerging Planning Policy documentation should recognise ongoing ('A' site) and forthcoming ('B' site) decommissioning, waste management and remediation processes at this location; together with the economic opportunity these activities provide to include future energy and employment uses across the Nuclear Licensed Site.

It is also worth noting that Nuclear Restoration Services also translates Governmental objectives into its own *Integrated Decommissioning and Waste Management Strategy* (2016)². This Strategy similarly seeks to ensure decommissioning activities are carried out in a way that protects people, plant and the environment; complies with Government policies; and provides value for money for the UK taxpayer. This document provides further information relating to the strategy phases of decommissioning strategy, the waste hierarchy and stakeholder consultation.

Finally, in 2024 the Government published the Civil Nuclear Roadmap³ which sets out the pathway to a UK resurgence in civil nuclear, covering both the long-term strategy and the near-term enabling policies the Government are pursuing. The Roadmap seeks to demonstrate how nuclear power can and will contribute to the government's push to reach net zero by 2050 and, in so doing, to strengthen the UK's energy security.

The Roadmap includes a commitment to publish an updated UK wide policy framework for nuclear decommissioning and managing radioactive substances, including radioactive waste in Spring 2024.

Previous Representations

As you will be aware, Avison Young have previously submitted representations on behalf of the NDA and NRS to various stages of the preparation of the Local Plan principally regarding proposed amendments to policy CSW17 required in order to ensure the policy and supporting text fully comply with the NDA Strategy, Government policy and guidance and also for the policy to provide a robust framework for the consideration of planning applications which will come forward in the future.

² <https://www.gov.uk/government/publications/magnox-integrated-decommissioning-and-waste-management-strategy#:~:text=The%20Integrated%20Decommissioning%20and%20Waste,and%20provides%20value%20for%20money>

³ <https://www.gov.uk/government/publications/civil-nuclear-roadmap-to-2050/civil-nuclear-roadmap-to-2050-accessible-webpage>

Details of Representations

For ease of reference we have included in the table below comments with respect of the following elements of the Draft Plan and supporting consultation material.

- Section 6.17 Radioactive Waste Management
- Section 6.18 Policy CSW 17: Policy CSW 17: Waste Management at the Dungeness Nuclear Licensed Sites
- Policy CSW17 (Waste Management at the Dungeness Nuclear Licensed Sites)
- Radioactive Waste Topic Paper

It is worth noting that our comment are very minor in nature which is as a consequence of the engagement we have had with officers on matters over the course of the past 4 years.

Document	Section / Policy	Comment
Draft Local Plan	6.17.3	Second sentence needs qualifying to explain that this is the proposed process for England.
Draft Local Plan	6.17.4	Fifth sentence, slight error – LLWR is in the administrative area of Cumberland Council, not Cumbria.
Draft Local Plan	6.17.6	Definition of Higher Activity Waste – slightly incorrect as this also includes HLW. We are unsure as to why there is a need to define HAW here as it is not mentioned in the Plan.
Draft Local Plan	6.18.1	No need to reference Nuclear Restoration Services in the second sentence.
Radioactive Waste Topic Paper	2.4.3	The New Nuclear NPS has recently been consulted upon and should therefore be referred to within the document.
Radioactive Waste Topic Paper	4.0.4	LLWR is not in Sellafield, it is nearby at Drigg.

Conclusion

This representation has been made by Avison Young on behalf of the NDA and NRS in response to the current consultation for the Kent Minerals and Waste Local Plan.

In summary, the NDA and NRS note the draft wording of Sections Section 6.17, 6.18, Policy CSW17 and the Radioactive Waste Topic Paper which we are broadly supportive of subject to some minor amendments being made.

We would welcome the opportunity for continued dialogue on matters relating to Dungeness nuclear licensed sites. In the meantime, if you require any clarity in respect of this representation, then please contact us.

Yours faithfully

Matt Verlander MRTPI

Director

0775 1090708

matt.verlander@avisonyoung.com

For and on behalf of Avison Young (UK) Limited

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 checked="" type="checkbox"/> | On behalf of someone else |
| <input 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.

Nuclear Decommissioning Authority (NDA) and Nuclear Restoration Services (NRS)

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

Please write in below.

Avison Young

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.

Matt Verlander

Tel. 0775 1090708

Email: matt.verlander@avisonyoung.com

Section B - Representation

You will need to complete questions 2 and 3 for each part of the plan that you wish to comment on. Please duplicate these questions as many times as required to cover each part of the plan 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 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.

Section 6.17 Radioactive Waste Management
 Section 6.18 Policy CSW 17: Policy CSW 17: Waste Management at the Dungeness Nuclear Licensed Sites
 Policy CSW17 (Waste Management at the Dungeness Nuclear Licensed Sites)

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.

X	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.

X	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 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.

Please see attached letter

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.

Please see attached letter

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.

Please see attached letter

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 checked="" type="checkbox"/> | Yes, I wish to speak to the Inspector at any hearing sessions |
| <input type="checkbox"/> | No, I wish to communicate through written representations |
| <input 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:

The issues relating to areas of interest are complex and technical and having representation from NDA / NRS at the sessions would therefore be beneficial.

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.