

# **Statement of Common Ground between Kent County Council and Tonbridge & Malling Borough Council (the Parties) concerning Minerals and Waste Safeguarding, mineral requirements, deletion of a strategic mineral site allocation (Policy CSM3) and allocation of Mineral Sites**

**Updated April 2024**

## **1.0 Introduction and Parties involved**

1.1.1 National policy<sup>1</sup> states that: *“Local planning authorities and county councils (in two-tier areas) are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries.”* And that *“Strategic policy-making authorities should collaborate to identify the relevant strategic matters which they need to address in their plans. They should also engage with their local communities and relevant bodies including Local Enterprise Partnerships, Local Nature Partnerships, the Marine Management Organisation, county councils, infrastructure providers, elected Mayors and combined authorities (in cases where Mayors or combined authorities do not have plan-making powers).”*

1.1.2 It also states<sup>2</sup>: *“In order to demonstrate effective and on-going joint working, strategic policy-making authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these. These should be produced using the approach set out in national planning guidance, and be made publicly available throughout the plan-making process to provide transparency”*

1.1.3 This document represents a **Statement of Common Ground (SoCG) between Kent County Council (KCC) and Tonbridge & Malling Borough Council (TMBC) (the Parties)** that will help ensure that waste is managed, and minerals are extracted and worked in the Borough of Tonbridge & Malling in accordance with relevant local and national policy.

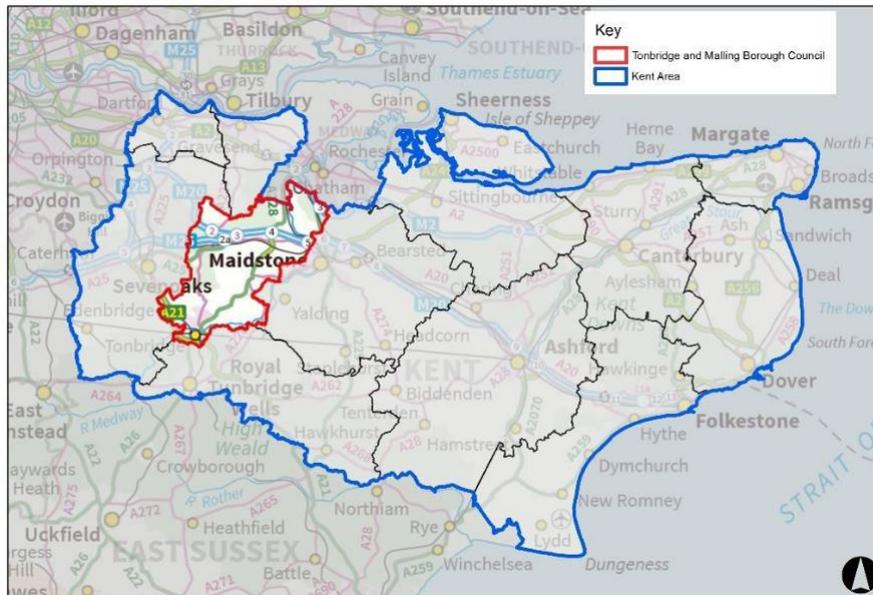
1.1.4 Specifically this SoCG covers the following strategic matters:

- Safeguarding of mineral resources and changes to the Tonbridge and Malling Borough Council Mineral Safeguarding Area Proposals Map;
- Safeguarding existing Minerals Management, Transport & Waste Management Facilities;
- Potential allocation of land for extraction of minerals (hard crushed rock) to meet objectively identified needs; and
- The deletion of the strategic mineral site Medway Cement Works Holborough (Policy CSM3)

1.1.5 KCC is the waste and minerals planning authority for the two-tier area of Kent with responsibility for planning for the future management of waste and supply of minerals in the county by preparing relevant strategic policies. The Borough of Tonbridge & Malling is located within Kent and TMBC has responsibility for planning other development such as housing and employment within the Borough of Tonbridge & Malling (See Figure 1).

<sup>1</sup> Paragraph 24 and 25 of the revised National Planning Policy Framework 2023  
<sup>2</sup> Paragraph 27 of the National Planning Policy Framework 2023

**Figure 1: Location of Kent and the Borough of Tonbridge & Malling**



1.1.6 In accordance with paragraph 8 of National Planning Policy for Waste 2014 as recognised by the Waste Management Plan for England January 2021, both parties have responsibility for helping ensure that waste is managed in accordance with the Waste Hierarchy, this includes the following:

*“8. When determining planning applications for non-waste development, local planning authorities should, to the extent appropriate to their responsibilities, ensure that:*

- the likely impact of proposed, non-waste related development on existing waste management facilities, and on sites and areas allocated for waste management, is acceptable and does not prejudice the implementation of the waste hierarchy and/or the efficient operation of such facilities;”*

1.1.7 Insofar as safeguarding mineral resources and waste management and mineral supply infrastructure is concerned, the following paragraphs of the NPPF 2023 apply:

*Paragraph 215:*

- “It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.”*

*Paragraph 216(c):*

- “safeguard mineral resources by defining Mineral Safeguarding Areas and Mineral Consultation Areas; and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided*

*(whilst not creating a presumption that the resources defined will be worked);*  
“

*Paragraph 216(d):*

- *“set out policies to encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place;”*

*Paragraph 216(e):*

- *“safeguard existing, planned and potential sites for: the bulk transport, handling and processing of minerals; the manufacture of concrete and concrete products; and the handling, processing and distribution of substitute, recycled and secondary aggregate material; “*

*Paragraphs 218:*

- *“Local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.”*

1.1.8 KCC is in the process of reviewing the adopted Kent Minerals and Waste Local Plan 2013-30 (Early Partial Review 2020) (KMWLP), and further considering the possible review of the adopted Mineral Sites Plan 2020 (MSP). The KMWLP review has resulted in modifications to its adopted planning policies concerning the supply of aggregate minerals, biodiversity net gain, low level and very low-level nuclear waste management at the Dungeness Nuclear Estate, deletion of both strategic minerals and waste site allocations, changes to the supporting text regarding the expectation of receiving a declining amount of non-hazardous waste from London and minor changes to the Mineral Safeguarding Area proposals maps.

1.1.9 With regards the MSP, depending on further consideration of any promoted sites, the Plan may require review and modification to enable an allocation to be secured or importation of such hard rock into the county to maintain hard rock landbanks until 2039. Imported hard (crushed) rock would arrive in Kent via its safeguarded mineral importation wharves and mineral rail depots. The materials could originate from other parts of the UK (Wales, Mendips potentially) or from overseas locations such as Norway. Hard igneous, metamorphic and sedimentary geologies from other locations could potentially meet Kent’s hard (crushed) rock aggregate requirements over the review Plan period to 2039. If Kent cannot maintain its land-won hard rock landbank, at the levels as required by the NPPF, importation would be the only alternative to maintain supply to meet objectively assessed needs. TMBC adopted its LDF Development Land Allocations DPD in 2008.

## 2.0 Signatories



Signed on behalf of Kent County Council



Signed on behalf of  
Tonbridge and Malling Borough Council

(Officer)  
Position: Head of Planning Applications  
Growth and Communities Directorate

(Officer)  
Position: Director of Planning, Housing and  
Environmental Health.

---

Date 16 April 2024

Date: 17 April 2024

## 3.0 Strategic Geography

3.1.1 Tonbridge & Malling is a westerly borough within central Kent (see Figure 1). Most of the borough is rural in character and the largest rural settlements are West Malling, Borough Green, Hadlow, Hildenborough and East Peckham. The main urban settlement is Tonbridge. Three motorways (M20, M26 and M2) cross the borough in the north. The A21 trunk road passes by the south and west of Tonbridge.

3.1.2 The economic safeguarded minerals found within the borough are detailed on the Kent Minerals and Waste Local Plan Mineral Safeguarding Areas proposals maps for the respective areas that can be seen at the following link:

<https://www.kent.gov.uk/about-the-council/strategies-and-policies/service-specific-policies/housing,-regeneration-and-planning-policies/planning-policies/minerals-and-waste-planning-policy/kent-minerals-and-waste-local-plan-kmwlp#tab-2> .

3.1.3 There are the imports and exports of mineral into and out of the Tonbridge and Malling Borough Council area, the facility handling these movements (East Peckham rail siding and Depot) is safeguarded. Details of these facilities can be seen at: <https://www.kent.gov.uk/about-the-council/strategies-and-policies/service-specific-policies/housing,-regeneration-and-planning-policies/planning-policies/minerals-and-waste-planning-policy/kent-minerals-and-waste-local-plan-kmwlp> at and using the link to the Kent Minerals and Waste Local Plan 2013-30 and onto part 9, Adopted Policies

Map:[https://www.kent.gov.uk/data/assets/pdf\\_file/0004/112585/Kent-Minerals-and-Waste-Local-Plan-2013-2030.pdf](https://www.kent.gov.uk/data/assets/pdf_file/0004/112585/Kent-Minerals-and-Waste-Local-Plan-2013-2030.pdf) .

3.1.4 Waste produced in the borough area is managed at various facilities both within and outside of the borough area. The safeguarded waste facilities are included in the monitoring and assessment part of the County Council's web page at the following link: <https://www.kent.gov.uk/about-the-council/strategies-and-policies/service-specific-policies/housing,-regeneration-and-planning-policies/planning-policies/minerals-and-waste-planning-policy/monitoring-and-assessment> . The mineral and waste sites list are part of the Annual Monitoring

Report though is kept separate for ease of updating. The list is a living document as sites are permitted and implemented or closed and restored. The list requires periodic updating.

## 4.0 Strategic Matters

### 4.1 Safeguarding of Mineral Resources Policy Considerations

4.1.1 Protecting mineral resources from unnecessary sterilisation is central to supporting sustainable development and so is a very important part of national planning policy. Minerals are a finite natural resource which need to be used prudently. The purpose of safeguarding minerals is to ensure that sufficient economic minerals are available for future generations to use (see National Planning Policy Framework 2023, Part 17 Facilitating the sustainable use of minerals).

4.1.2 The **Parties agree** that safeguarding of minerals resources in the Borough of Tonbridge Malling shall take place in accordance with safeguarding policies and the Updated Mineral and Waste Safeguarding Supplementary Planning Document (SPD) March 2021. Key aspects of the approach are described below.

#### *Minerals Safeguarding Areas (MSAs)*

4.1.3 MSAs cover areas of known mineral resources that are, or may in future be, of sufficient value to warrant protection for future generations. MSAs ensure that such resources are adequately and effectively considered in land-use planning decisions so that they are not needlessly sterilised.

4.1.4 The MSAs carry no presumption for extraction and there is no presumption that any areas within MSAs will ultimately be acceptable for mineral extraction. The Parties agree that boundaries of the adopted MSAs, as shown as part of the Regulation 19 Pre-Submission Draft of the Kent Minerals and Waste Local Plan 2024-39 for the Borough of Tonbridge & Malling are set out in the Policies Maps in chapter 9 of the emerging Plan.

4.1.5 Minerals Consultation Areas (MCAs) cover the same area as MSAs. The **Parties agree** that if an application for non-minerals development is received by TMBC within the MCA then it will consult KCC on the implications for safeguarding the resource in that area. The **Parties agree** that KCC will provide its views within 28 days of being consulted and if no response is provided TMBC may take that to mean that KCC has no safeguarding concerns.

4.1.6 The **Parties agree** that applications for development within MSAs will need to be accompanied by supporting professional information to allow an assessment of the impact on the resource to be undertaken. The information required is set out in the Safeguarding SPD.

4.1.7 The **Parties agree** that to support TMBC in consideration of minerals safeguarding, on request, KCC will provide free advice to the Borough Council on the importance of the safeguarded resource at the time an application is made.

4.1.8 The **Parties agree** that existing and allocated mineral sites are also protected by the safeguarding policies and KCC and TMBC will apply these policies when considering any applications which might impact upon the extraction of minerals from these sites.

4.1.9 The **Parties agree** that KCC and TMBC will apply Policy DM 7 determining if proposed development that might otherwise be incompatible with safeguarding a mineral resource would be acceptable. Exceptions to the presumption to safeguard are set out in Policy DM 7 include where a proposal is on land allocated in a local plan and/or where prior extraction of the mineral has taken place. Policy DM 7 is worded with a set criteria's 1-7 with 'either', 'or' as part of the structure of the policy. When applying this policy, owing to this wording, only one criterion needs to be met to demonstrate compliance with the policy.

4.1.10 The **Parties agree** that development proposed on a site allocated in the TMBC Local Development Framework Development Land Allocations Development Plan Document 2008 for that purpose within an MSA may be capable of being exempt from safeguarding with full consideration to the exemption criteria of the KMWLP policy DM 7 as set out in proposed exemption criterion (7): *It constitutes development on a site allocated in the adopted development plan where consideration of the above factors (1-6) concluded that mineral resources will not be needlessly sterilised.*

4.1.11 Moreover, any proposals will be considered against adopted and emerging review KMWLP Development Plan Policy DM 7, where the policy is worded with the exemption criteria 1-7 with 'either', 'or' as part of the structure of the policy. When applying the policy, owing to this wording, only one criterion needs to be met to demonstrate that an exemption can apply.

4.1.12 The **Parties agree** that when deciding on allocations in future Local Plans, TMBC will fully take into account the existence of the MSAs, will take free advice from KCC on the suitability of the allocation, if any proposed sites are within an MSA, and will apply Policy DM 7.

#### *Prior Extraction of Minerals in Advance of Surface Development.*

4.1.13 **Parties agree** that KCC and TMBC will consider applications for prior extraction of safeguarded mineral resources, that would otherwise be sterilised by non-minerals development, against adopted and the emerging review Kent MWLP Policies CSM 4 and DM 9.

#### *Review of MSA*

4.1.14 The **Parties agree** that KCC will review the extent of the MSAs at least every five years. As the current MSAs were adopted in 2016 and reviewed in 2023 this means they will be reviewed no later than 2028.

## 4.2 Safeguarding Minerals Management, Transportation & Waste Management Facilities

4.2.1 Mineral transportation infrastructure is important because imported minerals make a major contribution to Kent's requirements and production facilities convert materials into useable products. Transportation infrastructure also allows for export of minerals to other areas.

4.2.2 The purpose of safeguarding sites hosting existing waste and minerals infrastructure, as well as those with planning permission and/or allocated for such uses, is to ensure that the need for existing or planned waste management and minerals supply infrastructure is taken into account when decisions are made on all new development in Kent.

4.2.3 The **Parties agree** that as the responsibility for determining the majority of planning applications for non-waste and minerals development in the Borough of Tonbridge & Malling, such as housing, lies with TMBC, this authority is partly responsible for ensuring the safeguarding of waste and minerals infrastructure. In any event, both Authorities agree that they will work together to ensure that the relevant safeguarding policy is implemented effectively. For the purposes of determining planning applications, the Borough Local Development Framework and including the new emerging Local Plan, once adopted and the emerging Review Minerals and Waste Local Plan both form part of the Development Plan for the purposes of s38(6) of the Planning and Compulsory Purchase Act 2004.

4.2.4 The **Parties agree** that when considering applications which may impact upon the ongoing operation of such infrastructure KCC and TMBC will apply Policy CSM 6 (Railheads and Wharves) and Policy CSM 7 (Other Mineral Plant), as appropriate.

4.2.5 The loss of existing waste management capacity could have an adverse effect upon delivering the waste strategy, including net self-sufficiency in waste management, in Kent and so its protection is also important. The **Parties agree** that KCC and TMBC will apply policy CSW 16 for non-waste management uses at or within 250m of existing facilities and will then consider each application on its own merits, including whether an exemption to safeguarding is invoked under the adopted and emerging review KMWLP Policy DM 8.

4.2.6 The **Parties agree** that application of the policies mentioned above means that planning applications for development which replaces or jeopardises the minerals and waste infrastructure capacity provided by these operations will be considered on their own merits in accordance with Local Plan and national planning policies.

4.2.7 The **Parties agree** that where other development is proposed at, or within 250m of, safeguarded minerals and waste management facilities TMBC will

consult KCC and take account of its views before making a planning decision (in terms of both a planning application and an allocation in a local plan).

4.2.8 The **Parties agree** that KCC and TMBC will apply the adopted and emerging review KMWLP Policy DM 8 when establishing if proposed development that might otherwise be incompatible with safeguarding minerals and/or waste infrastructure would be acceptable. The policy is worded with set criteria 1- 7 with 'either', 'or' as part of the structure of the policy and when applying these policies, owing to this wording, only one criterion needs to be met to demonstrate compliance with the policy.

4.2.9 The **Parties agree** that, in accordance with the adopted and emerging review KMWLP Policy DM 8 development proposed on a site allocated in the Tonbridge & Malling Borough Council Local Development Framework Development Land Allocations Development Plan Document 2008 for that purpose that would jeopardise existing or allocated minerals and waste infrastructure may be capable of being exempt from safeguarding with full consideration to the exemption criteria set out in the emerging Review KMWLP Policy DM 8 proposed exemption criterion (2):

*it constitutes development on the site that has been allocated in the adopted development plan where consideration of the other criteria (1, 3-7) can be demonstrated to have taken place in formulation of the plan and allocation of the site which concluded that the safeguarding of minerals management, transportation production and waste management facilities has been fully considered and it was concluded that certain types non-mineral and waste development in those locations would be acceptable*

4.2.10 Moreover, any proposals will be considered against adopted Development Plan policy DM 8, where the policy is worded with set criteria 1-7 with 'either', 'or' as part of the structure of the policy. When applying the policy, owing to this wording, only one criterion needs to be met to demonstrate compliance with the policy.

4.2.11 Each year KCC will publish an updated list of existing minerals management, transportation and waste sites requiring safeguarding in the KCC Annual Monitoring Report.

### **4.3 Locating New Mineral Sites and Potential Review of Mineral Sites Plan**

4.3.1 The adopted Kent Minerals Sites Plan (MSP) allocates specific sites suitable for the extraction of aggregate mineral (specifically soft sand and sharp sand and gravel).

4.3.2 The **Parties agree** a specific site has been identified in the Borough of Tonbridge & Malling in the adopted Minerals Sites Plan as suitable, in principle, for extraction of sharp sand and gravel.

4.3.3 The site proposed for allocation is known as:

- M13 Stonecastle Farm, Hadlow / Whetsted

4.3.4 The site details include development management criteria that would need to be considered in the determination of any planning application and local plan formulation. Any proposal for mineral extraction at this location would have to demonstrate consistency with other policies of the Development Plan, which includes policies in the adopted and emerging review of the KMWLP, the TMBC Core Strategy 2007 and the TMBC LDF Development Land Allocations DPD 2008 as well as the Borough Council's emerging Local Plan, once adopted. In the event of any future plan review TMBC will have the opportunity to comment on to the development management criteria according to the statutory plan review consultative process. Though at this time the County Council does not anticipate any changes to the Mineral Sites Plan development management criteria will be necessary.

4.3.5 As part of the development management criteria it has been agreed that the site will be operated sequentially with the existing permitted Stonecastle Farm site and the adjacent Moat Farm site (if permitted) and not worked concurrently. It is also agreed that the vehicular access for each of the sites will be onto the A228 and a suitable restoration plan will be secured for after the completion of quarrying works.

4.3.6 The **Parties agree** that as an adopted site in the Minerals Sites Plan, Tonbridge and Malling Borough Council has no fundamental objection to the allocation and recognise the status of the site allocation if determining planning applications on or within 250m of the site, as an allocated site in the TMBC Development Plan, a safeguarded minerals area in the MSAs and a safeguarded minerals site.

4.3.7 The **Parties agree** the development of the allocated site M13 in the adopted Mineral Sites Plan must strictly conform with the development management criteria applicable to this site.

4.3.8 The **Parties disagree** on the following matters:

In relation to the adopted Mineral Sites Plan, and the M13 site (and that in the Tunbridge Wells Borough Council area immediately adjacent called M10 Moat Farm):

- Restoration. TMBC request the site be restored to agriculture (not artificial lakes with lake margin and woodland landscaping).
- Section 106 legal agreement. TMBC request a legal agreement to be used to secure restoration and the necessary funding.
- Heritage. TMBC request mitigation measures on the nearby heritage assets be incorporated into the development of the sites.

However, the Parties agree that the adopted Mineral Sites Plan has been adopted and therefore the principle of mineral development resulting in wetland

restoration as acceptable at this allocation, any future planning permission will consider matters such as the fine detail of restoration and protection of heritage assets in more detail.

4.3.9 In relation to the emerging Mineral Sites Plan work, TMBC are aware that the review of the KMWLP has demonstrated that further supply of hard (crushed) rock will be required to meet identified needs to 2039, the emerging review KMWLP period to 2039. Currently, the matter of where suitable resources of hard rock would be located as an acceptable resource, has not been determined. Detailed technical assessment work is ongoing and at present there can be no conclusions as to whether or not the MSP will be reviewed to include any hard (crushed) rock allocation(s) in the TMBC area.

4.3.10 TMBC acknowledge that as part of the KMWLP Review Regulation 18 plan public consultation a new hard rock site was promoted in response to the call for sites on land to the south and west of Hermitage Quarry, Aylesford. As set out in the TMBC consultation response letter [dated 20.07.23], TMBC continue to raise significant concern over this site proposal.

4.3.11 The **Parties agree** that KCC and TMBC will continue to liaise, cooperate and discuss this matter when further information becomes available in the public domain, so that both authorities are fully engaged and understand what issues may need clarifying in the future.

#### **4.4 Deletion of Strategic Mineral Site – Policy CSM3**

4.4.1 The pre submission draft of the KMWLP proposes the deletion of the strategic mineral site at the Medway Cement Works Holborough (Policy CSM3 in the adopted KMWLP). Whilst the site has not been fully built out, planning permission for the cement works development has been implemented and therefore safeguarding objectives are secured via an extant planning permission as opposed to a strategic allocation.

4.4.2 TMBC wish to highlight that this site was submitted through its Call for Sites exercise (Site ID no. 59866) as a potential development site. This is currently being considered and no decision has been made yet regarding the borough's future development strategy. As set out in TMBC's Regulation 18 public consultation letter dated 30.11.2022.

4.4.2 The **Parties** will cooperate together in a meaningful way and on an ongoing basis to ensure the strategic nature of this mineral site is understood and development management decisions by both authorities are taken with full understanding of its lawful status.

## 5.0 Governance and Future Arrangements

5.1.1 The **Parties** will cooperate and work together in a meaningful way and on an ongoing basis to ensure the effective strategic planning of minerals and waste matters in Kent. This statement is agreed by the KCC's Head of Planning Applications Group and TMBC's Director of Planning, Housing and Environmental Health.

5.1.2 The ability of the Borough of Tonbridge & Malling to contribute to waste management and minerals supply in Kent will be monitored by KCC and reported each year in the Kent Annual Monitoring Report. As necessary, this monitoring will trigger a review of this Statement of Common Ground, for example in light of changes to waste management and minerals supply capacity within the Borough of Tonbridge & Malling. The results of any review will be reported in each Authorities' Authority Monitoring Reports.

5.1.3 Specific matters likely to prompt a review of this SoCG are as follows:

- Adoption of the review Kent Minerals Sites Plan 2024-39 (anticipated December 2024)
- Any further update to the Kent Minerals and Waste Safeguarding SPD
- Further reviews of Minerals Safeguarding Areas
- Strategic matters affecting either plan making authority from TMBC's emerging Local Plan work (adoption anticipated 2026); and
- Any key changes to relevant national policy

5.1.4 The **Parties** agree that ongoing engagement will ensure that the formulation of the Development Plan for the relevant areas of TMBC and KCC are the result of justified and robust cooperative working.