



www.tmbc.gov.uk/localplan

localplan@tmbc.gov.uk

Sharon Thompson
Head of Planning Applications
Environment and Waste
Kent County Council

14th January 2024

Dear Sharon

Draft Pre-Submission Kent Minerals and Waste Local Plan (KMWLP) 2024 – 2039 (Regulation 19) consultation response.

Tonbridge and Malling Borough Council (TMBC) welcomes this opportunity to comment on this draft Pre-Submission of the Kent Minerals and Waste Local Plan (KMWLP) 2024 – 2039.

TMBC acknowledges that the KMWLP was adopted in July 2016, and partially updated in 2020. This forms part of the Tonbridge and Malling Borough Council's current Development Plan and that the borough is subject to the policies contained within this Plan.

The following Cabinet Member agreed comments are made in response to this Regulation 19 consultation which should be considered alongside the council's previous comments submitted at Regulation 18 stage.

Proposed changes to the draft Pre-Submission of the Kent Minerals and Waste Local Plan 2024-2039 policies and supporting text.

TMBC acknowledge the changes to the policies and supporting text in the draft Pre-Submission KMWLP and raise no objection to them.

However, Tonbridge and Malling Borough Council would recommend the following informative points are addressed/included within the Plan prior to its submission for examination in public;

National Landscapes

Throughout the Plan, reference is made to Areas of Outstanding Natural Beauty [AONB's] especially within policy DM2. KCC are reminded that from November 2023 these were rebranded as **National Landscapes** which should be reflected within the policies and text.

Following a change to the Levelling Up and Regeneration Act (2023), the duty placed on public bodies and statutory undertakers has now shifted to an active duty whereby a relevant authority **must seek to further** the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty. In this respect, it is unclear how the KMWLP seeks to achieve this new duty.

Biodiversity Net Gain (BNG)

TMBC is pleased to see policies targeting Biodiversity Net Gain (BNG). However, there does not appear to be any hierarchy for contributions where it is considered it would be helpful if the KMWLP policies set out a clear BNG hierarchy to follow with 'on site' being the priority.

Summary

TMBC acknowledge the draft Pre-Submission KMWLP. It is considered that the Plan does not present significant policy constraints for the borough of Tonbridge and Malling and the delivery of its planning functions. Therefore, TMBC raise no objection to the proposed changes and support the Plan as a whole but recommended that further consideration be given in light of the comments cited above.

Duty to Cooperate

TMBC has a good working relationship with KCC through the duty to cooperate forum and will continue to engage and support collaborative working in the preparation of our respective Local Plans.

TMBC would like to be kept well-informed of your plan making progress. In particular, TMBC request to be kept informed with the progression of the Kent Minerals Sites Plan and the proposed hard rock site at Oaken Wood or any other site which could potentially impact upon the communities of Tonbridge and Malling and/or influence TMBC's Plan making.

I hope these comments are of assistance.

For any further enquiries regarding this matter please contact Julian Ling –
Julian.ling@tmbc.gov.uk

Yours sincerely

Julian Ling
Senior Planning Policy Officer

Representation Form

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

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

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

Email: mwlp@kent.gov.uk

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

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

What information do you need before completing the questionnaire?

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

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

Full responses will be submitted to the Planning Inspector appointed by the Secretary of State for Independent Examination. A summary of the responses will be made publicly available on our website with all personal data removed. Please read our privacy statement below for further details.

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

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

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

Section A - Personal Information

Q1. Please tell us in what capacity you are completing this form:

Please select one option.

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | As an individual |
| <input type="checkbox"/> | On behalf of someone else |
| <input checked="" type="checkbox"/> | On behalf of an organisation / affiliation |

Q1a. Please tell us your name or the person you are responding on behalf of:

Please provide a first and last name. Please write in below.

Julian Ling – Senior Planning Policy Officer

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

Please write in below.

Tonbridge and Malling Borough Council

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.

Julian Ling
Tonbridge and Malling Borough Council,
Gibson Building, Gibson Dr,
Kings Hill, West Malling
ME19 4LZ
Julian.ling@tmbc.gov.uk

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.

The whole Plan

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.

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	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.

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

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

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

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

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

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

Please be precise and give as much detail as possible.

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.

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.

Support, however Tonbridge and Malling Borough Council would recommend the following informative points are addressed/included within the Plan prior to its submission for examination in public;

National Landscapes

Throughout the Plan, reference is made to Areas of Outstanding Natural Beauty [AONB's] especially within policy DM2. KCC are reminded that from November 2023 these were rebranded as National Landscapes which should be reflected within the policies and text. Following a change to the Levelling Up and Regeneration Act (2023), the duty placed on public bodies and statutory undertakers has now shifted to an active duty whereby a relevant authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty. In this respect, it is unclear how the KMWLP seeks to achieve this new duty.

Biodiversity Net Gain (BNG)

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

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

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | Yes, I wish to speak to the Inspector at any hearing sessions |
| <input checked="" type="checkbox"/> | No, I wish to communicate through written representations |
| <input type="checkbox"/> | Don't know |

Q5a. If you wish to participate at the hearing sessions during the examination, please outline why you consider this to be necessary in the box below:

Thank you for taking the time to complete this form.

Full responses will be submitted to the Planning Inspector appointed by the Secretary of State for Independent Examination. A summary of the responses will be made publicly available on our website with all personal data removed. Please read our privacy statement below for further details.

Closing date for responses: midnight on Thursday 29 February 2024

Minerals and Waste Local Plan privacy statement

We keep this privacy notice under regular review and was last updated on 4 January 2024.

Kent County Council (KCC) respects your privacy and is committed to protecting your personal data. This privacy notice will inform you as to how we look after your personal data and tell you about your privacy rights and how the law protects you.

Who we are

KCC collects, uses and is responsible for certain personal information about you. When we do so we are regulated under the General Data Protection Regulation (GDPR) which applies across the European Union (including in the United Kingdom) and the Data Protection Act 2018. We are responsible as ‘controller’ of that personal information. The Planning Applications Group, as the minerals and waste planning authority for Kent, has a statutory duty to prepare a plan for waste management capacity and mineral provision in accordance with the Planning and Compulsory Purchase Act 2004 (‘the Act’) and the Town and Country Planning (Local Planning) (England) Regulation 2012 (‘the Regulations’). Our Data Protection Officer is Benjamin Watts.

The personal information we collect and use

Information collected by us

In the course of providing a minerals and waste planning service, we collect the following personal information when you provide it to us:

- name
- address
- signature
- email
- telephone number
- full address of the development
- landowner and land occupier information
- any other information that you may provide to us within your correspondence.

We also collect ‘special category data’ (personal data which is more sensitive and is treated with extra care and protection, for example race and ethnicity, religious or philosophical beliefs, sex life, sexual orientation, political opinions, trade union membership, information about health, and genetic and biometric data) if it is provided to us.

We also obtain personal information, including special category data if it is provided, from other sources as follows:

- name, address, signature, email, telephone number, full address of the development and comments submitted via agents and interested parties via KCC's consultation portal.
- name, address, email, telephone number shared with us from other third parties such as from the district councils, other enforcement agencies, other KCC departments, cabinet members, county councillors, central government.

How we use your personal information

We use your personal information to comply with our statutory duties and any legal obligations and where it is necessary to perform a public task in the public interest as the mineral and waste planning authority.

We store and use personal information submitted to us in relation to the Minerals and Waste Plan making processes in order to:

- make decisions about the use of land in the public interest
- to develop and review the Minerals and Waste Local Plans (MWLP)
- to produce and maintain a Statement of Community Involvement
- to undertake consultation events (such as in relation to a call for sites, site plans)
- to produce a Local Aggregate Assessment (LAA) and Annual Monitoring Review (AMR).

We have a statutory obligation to provide these services in accordance with planning legislation including:

- Town and Country Planning Act 1990
- Planning and Compulsory Purchase Act 2004
- Town and Country Planning (Local Development) Regulations 2004 as amended
- The Town and Country Planning Act (Local Planning) (England) Regulations 2012
- Planning Act 2004
- Town and Country Planning Development Management Procedure England Order 2015
- Town and Country Planning (Environmental Impact Assessment) Regulations 2017
- Local Government Act 1972
- Local Government Act 1974
- Local Government (Access to Information) Act 1985

- any Regulations made pursuant to the above legislation.

Reasons we collect and use your personal information

We rely on public task or legal obligation as the lawful basis on which we collect and use your personal data.

We rely on substantial public interest as the lawful basis on which we collect and use your special categories of personal data.

We rely on the statutory or government purposes condition in the Data Protection Act 2018 to process your special category data.

We take the following appropriate safeguards in respect of your special category data when relying on the conditions above:

- We have a Special Category and Criminal Records Appropriate Policy Document in place when using your special category data. This policy is retained throughout the time we use your data and for 6 months after we cease to use it.
- We have a retention schedule which explains how long data is retained.
- We maintain a record of our processing in our 'Record of Processing Activities' and record in it any reasons for deviating from the periods in our retention schedule.

The provision of contact details and your correspondence or representation (including where you choose to provide special category data) enables us to provide a minerals and waste plan making service.

Anyone can make a representation in relation to a current consultation event (for example, in relation to the MWLP work and review of the Statement of Community Involvement), but comments must be made in writing and should not be anonymous.

Representations can be submitted via the consultation portal or directly to the MWLP Team. Any views or comments received as part of a MWLP consultation event will be taken into account and [at Regulation 19 stage] will be sent in unredacted form to the Secretary of State and the Planning Inspectorate as part of the plan making process.

As we have a statutory basis for collecting your personal data, if you do not provide your name and contact details, we may not be able to acknowledge your response or communicate with you and this may affect the service that we provide.

If you are submitting supporting information, which you would like to be treated confidentially or is special category data, please let us know as soon as you can, ideally in advance of submitting your representation or correspondence. You can do this by contacting the MWLP Team.

How long your personal information will be kept

All information submitted within a response to a consultation event (such as the MWLP, Statement of Community Involvement) including names, addresses, signatures and contact details, will be retained by the council for 6 years after the end of the relevant plan making cycle.

All information submitted within a response to the Aggregate Assessment Survey and Annual Monitoring Review including names, addresses, signatures and contact details, will be retained by the council on a permanent basis.

Personal information including your name and contact details which is retained on our database during the plan making process for the purpose of keeping you informed about the plan making process will be deleted 6 years after the end of the relevant plan making cycle.

Personal information including your name and contact details retained on our consultation database will be retained for the purpose of keeping you informed unless you opt out of this via your registration within the consultation database.

Who we share your personal information with

All information (including personal data and special category data for which we have a legal basis to process) stored on our databases and in our case files may be shared with a contracted external provider who is carrying out planning or IT work on behalf of the planning authority.

All information submitted in response to a MWLP consultation event will be shared in redacted form on our website and on our consultation database. We usually publish the full text of consultation responses you provide on our website. We will redact your address, signature and email address and any special category data from your comment however, you should be careful not to provide any personal data or special category data (previously called sensitive personal data) about yourself in these comments which is capable of identifying you or anyone else. If you do so, you must be aware that these may be seen by the public at large and may be shared as detailed in this privacy notice.

All information submitted in response to a MWLP consultation [at Regulation 19 stage] (including personal data and special category data for which we have a legal basis to process) will be shared with the planning inspector appointed by the Secretary of State to conduct the minerals and waste plan examination, and during examination in public, will be subject to the current Planning Inspectorate privacy guidance.

All information submitted in response to a Statement of Community Involvement consultation will be shared only in redacted form.

All information submitted in response to a local aggregates assessment request will only be shared on our website in an aggregated format and this will not include personal data.

Where relevant, information may be shared in the event of a request made under the Freedom of Information Act 2000 or Environmental Information Regulations 2004. In such cases personal data will be redacted and any information that has been provided on a confidential basis will be withheld, if an exemption under the relevant regulations apply.

We will share personal information (including unredacted information if required) with law enforcement or other authorities if required by applicable law or in connection with legal proceedings.

In the event of a legal challenge, unredacted correspondence (including personal data and special category data for which we have a legal basis to process) will be sent to the courts and may be disclosed to third parties.

Where relevant, unredacted correspondence (including personal data and special category data for which we have a legal basis to process) received will be sent to the Local Government and Social Care Ombudsman regarding alleged complaints about maladministration by a public authority.

We will share personal information with our legal and professional advisers in the event of a dispute, complaint or claim. We rely on Article 9(2)(f) where the processing of special category data is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity.

We will sometimes need to share the unredacted information we have with other departments in KCC and other external statutory bodies.

Your rights

Under the GDPR you have a number of rights which you can access free of charge which allow you to:

- know what we are doing with your information and why we are doing it
- ask to see what information we hold about you
- ask us to correct any mistakes in the information we hold about you
- object to direct marketing
- make a complaint to the Information Commissioner's Office.

Depending on our reason for using your information you may also be entitled to:

- object to how we are using your information

- ask us to delete information we hold about you
- have your information transferred electronically to yourself or to another organisation
- object to decisions being made that significantly affect you
- stop us using your information in certain ways.

We will always seek to comply with your request however we may be required to hold or use your information to comply with legal duties. Please note: your request may delay or prevent us from delivering a service to you.

For further information about your rights, including the circumstances in which they apply, see the guidance from the [UK Information Commissioner's Office](#) on individuals' rights under GDPR.

If you would like to exercise a right, please contact the Information Resilience and Transparency Team at data.protection@kent.gov.uk.

Keeping your personal information secure

We have appropriate security measures in place to prevent personal information from being accidentally lost or used or accessed in an unauthorised way. We limit access to your personal information to those who have a genuine need to know it. Those processing your information will do so only in an authorised manner and are subject to a duty of confidentiality.

We also have procedures in place to deal with any suspected data security breach. We will notify you and any applicable regulator of a suspected data security breach where we are legally required to do so.

Contact

Please contact the Information Resilience and Transparency Team at data.protection@kent.gov.uk to exercise any of your rights, or if you have a complaint about why your information has been collected, how it has been used or how long we have kept it for.

You can contact our Data Protection Officer, Benjamin Watts, at dpo@kent.gov.uk, or write to: Data Protection Officer, Sessions House, Maidstone, Kent ME14 1XQ.

GDPR also gives you right to lodge a complaint with the [Information Commissioner](#) who may be contacted on 03031 231113.