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Pre-Submission Draft of the Kent Minerals and Waste Local Plan 2024-39: response from the Woodland Trust.

The Woodland Trust is the UK's leading woodland conservation charity: we want to see a UK that is rich in native woods and trees, for people and wildlife. We aim to achieve this by restoring and improving woodland biodiversity and increasing people's understanding and enjoyment of woods and trees.

We own over 1,275 sites across the UK, with over 20 sites in Kent, including Ashenbank, Bearstead Wood, Dering Wood, the Hucking Estate, Longbeach, and Victory Wood. We are also partners in the Wilder Blean project. In total our sites cover over 30,000 hectares nationwide, and we have around 500,000 members and supporters. The Trust is recognised as a national authority on woods and trees, and a protector of the benefits and value that they deliver for climate, nature, and society.

The Trust also campaigns with the support of local communities, to prevent any further destruction of ancient woods and veteran trees. We are an evidence-led organisation, using existing policy and our conservation and planning expertise to assess the impacts of development on these irreplaceable woodland habitats.

We welcome the opportunity to comment on the Pre-Submission Draft of the Kent Minerals and Waste Local Plan 2024-39.

Ancient woodland, including plantations on ancient woodland soil, and ancient & veteran trees, are irreplaceable habitats and must be protected from loss, deterioration, or harm. For policies in the draft MWLP to be judged as lawful, effective, and sound, they must provide a robust framework to protect these habitats.

Spatial Vision for Minerals and Waste in Kent

We note the wording at points 3 & 4 on working with the environmental sector and ensuring the conservation of the natural environment.

3. Deliver sustainable solutions to the minerals and waste needs of Kent and beyond through collaborative working with communities, landowners, the minerals and waste industries, the environmental and voluntary sector and local planning authorities.

4. Embrace the naturally and historically rich and sensitive environment of the plan area and ensure that it is conserved and enhanced for future generations to enjoy.

To be sound and in line with the NPPF paragraphs 8c) and 180, we suggest amending point 4 to change the word "Embrace" to "Protect".

Strategic Objectives for the Minerals and Waste Local Plan

We note the wording at points 4a and 6, and welcome the encouragement of a more sustainable, demand-management approach.

4a. Ensure that waste is managed, and minerals are supplied in a manner which is consistent with the achievement of a more circular economy.

6. Promote and encourage the use of recycled and secondary aggregates in place of primary land and marine won minerals.

To be sound, and to better reflect NPPF para 8c), we suggest adding wording at the end of 4a “and the safeguarding of the natural environment.”

We note the wording at points 9 and 15 on restoration of minerals and waste sites respectively and welcome the policy approach that after-uses should maximise the potential for biodiversity net gain and the delivery of local nature recovery strategies.

9. Restore minerals sites at the earliest opportunity to the highest possible standard to sustainable after-uses that benefit the Kent community economically, socially, or environmentally. Where possible, after-uses should conserve and improve local landscape character, and provide opportunities for improvements in biodiversity which meet and, where relevant, exceed targets outlined in the Kent Nature Partnership Biodiversity Strategy 2020 to 2045, the Biodiversity Opportunity Areas, Areas of Outstanding Natural Beauty (AONB) Management Plans and Local Nature Recovery Strategies to help maximise overall net-gain in biodiversity on restoration

15 Restore waste management sites at the earliest opportunity to the highest possible standard to sustainable after-uses that benefit the Kent community economically, socially, or environmentally. Where possible, after-uses should conserve and improve local landscape character and provide opportunities for biodiversity to meet and where relevant, exceed targets outlined in the Kent Nature Partnership Biodiversity Strategy 2020 to 2045, the Biodiversity Opportunity Areas, Greater Thames Nature Improvement Area, Area of Outstanding Natural Beauty Management Plans and Local Nature Recovery Strategies to maximise overall net-gain in biodiversity on restoration.

To be sound and to reflect the NPPF paras 185 b) and 216 h), we suggest amending the wording to add at the end of point 9 and at the end of point 15 “in line with Natural England standing advice.”

Policy CSM 2 Supply of Land-won Minerals in Kent

We note the wording at point 6 on Selection of Sites for Allocation, with a list of criteria that will be considered for selecting and screening the suitability of sites for allocation.

To be sound and to comply better with NPPF para 180 d), we recommend strengthening the criteria by amending *strategic environmental information, including landscape assessment and Habitat Regulations Assessment (HRA) as appropriate.*
to read

strategic environmental information, including landscape assessment, Habitat Regulations Assessment (HRA), and potential to meet statutory requirements for biodiversity net gain, as appropriate.

Policy CSW6 Location of Built Waste Management Facilities

We note the wording

Planning permission will be granted for proposals that:

b. do not give rise to significant adverse impacts upon Local Wildlife Sites (LWS), Local Nature Reserves (LNR), Ancient Woodland, Air Quality Management Areas (AQMAs) and groundwater resources

We note the wording at point j) requiring a 250m buffer from sensitive receptors for operations that may give rise to bioaerosols.

To be sound, and to meet the requirements of NPPF para 186c), we suggest the addition of a similar point for ammonia emissions. Ancient woodland is greatly at risk from ammonia pollution. We recommend therefore adding specific requirements that additional screening will be required of all ammonia-emitting developments within 5km of an ancient woodland site or other sensitive receptors, with a detailed 'Ancient Woodland Nitrogen Impact Assessment' of the ancient woodland of concern.

Suitable wording could be

k) for facilities involving operations that may give rise to ammonia, to locate at least 5km away from any potentially sensitive receptors such as ancient woodland, or if located within 5km to meet the additional screening requirements identified in a nitrogen impact assessment.

Policy DM 1 Sustainable Design

We support the wording at point 7, noting that where there is any loss or harm to irreplaceable habitats such as ancient woodland, there is no possibility of biodiversity net gain.

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

7. maximise opportunities to contribute to green and blue infrastructure, to include benefits to communities (including Public Rights of Way), and to contribute to biodiversity net gain.

Policy DM 2 Environmental & Landscape sites

We welcome the wording under point 2, National Sites, which has been strengthened in the current draft:

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

We welcome the wording under point 3, Local Sites, for sites will not normally be granted permission to include:

f. irreplaceable habitat including aged and veteran trees.

Ancient and veteran trees are irreplaceable habitats and afforded a high level of protection in planning policy. Natural England's standing advice on ancient and veteran trees states that they can be individual trees or groups of trees within wood pastures, historic parkland, hedgerows, orchards, parks, or other areas. They are often found outside ancient woodlands.

The Ancient Tree Inventory (ATI) for the county may be incomplete. We therefore recommend an exercise to complete the ATI (which lists ancient, veteran, and notable trees outside woods) across any sites proposed to be allocated for minerals or waste sites, to comply with the requirements of the NPPF para 180c for the protection of irreplaceable habitats.

Policy DM 3 Ecological Impact Assessment

We welcome the wording that

Proposals for minerals and waste developments will be required to ensure that they result in no unacceptable adverse impacts on Kent's important biodiversity assets.

We note the wording that

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.

To make the plan effective, we recommend amending the minimum requirement from 10% net gain to 20%, to achieve consistency with para 7.2.5 and the Kent Nature Partnership. By setting a more ambitious target, the MWLP increases the chances that an average net gain of at least 10% will be delivered across the Plan area, given the possibility that some sites may not be able to deliver net gain within the County, or that initiatives intended to deliver such gain may fall short in practice.

We note the wording that

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

We request clarification in the accompanying text or future guidance, (in line with para 7.2.5) that having limited options to maximise net gain does not obviate the requirement to achieve minimum net gain. Irreplaceable habitats, such as ancient woodland, must never be included in net gain calculations, and mitigation and compensation measures must not form part of the considerations in making planning decisions. Any scheme that damages such habitats, irrespective of any mitigation and compensation measures, cannot deliver net gain.

Policy DM 17 Planning Obligations

We welcome the wording at point 6, that matters potentially supported by planning obligations should include:

6. *environmental enhancement and the delivery of targets in the Kent Nature Partnership Biodiversity Strategy 2020 to 2045 and the Local Nature Recovery Strategies, as well as securing the implementation and long-term management of biodiversity net gain.*

Policy DM 19: Restoration, Aftercare and After-use

We welcome the wording at points 17, 19 and 22 on creating new areas of natural habitat, woods, and trees as part of site restoration.

17. proposals for meeting and where relevant exceeding, biodiversity net gain targets, including those outlined in the Kent Nature Partnership Biodiversity Strategy 2020-45, Biodiversity Opportunity Areas, Areas of Outstanding Natural Beauty Management Plans, and the Local Nature Recovery Strategy.

19. planting of new native woodlands.

22. details of the seeding of grass or other crops and planting of trees, shrubs, and hedges.

We recommend amending point 22 to read “planting of native trees, shrubs and hedges, from UK sourced and grown stock”, in line with Kent County Council’s Tree Establishment Strategy 2022-2032. UK sourcing helps address threats of pests & disease, boosting resilience and biosecurity (in line with NPPF para 185b) as well as supporting the green economy and reducing the carbon footprint of the supply chain.

We note the wording:

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

As noted in our response to DM 3 above, we recommend amending the minimum requirement from 10% net gain to 20%.

We recommend referring in the accompanying text (e.g. at 7.17.2) to Natural England and the Forestry Commission’s Assessment Guide for planning officers, to assist in making a comprehensive assessment of the potential effects of a development on ancient woodland and veteran trees when referring to the standing advice, and to the Woodland Trust’s Planners Manual for Ancient Woodland.

Natural England’s standing guidance advises that planting new trees and creating new native woodland is not a direct replacement for lost or damaged trees or woodland. Planners cannot accept plans to move an ancient woodland ecosystem because it is not possible to replicate the same conditions at another site, and it would no longer be an ancient woodland.

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