

**CABINET MEMBER FOR
PLANNING, INFRASTRUCTURE
AND ECONOMIC DEVELOPMENT**

7 September 2023

**MBC response to the Kent Minerals and Waste Plan and
Kent Minerals Sites Plan reviews**

Timetable	
Meeting	Date
Planning, Infrastructure and Economic Development Policy Advisory Committee	06/09/2023
Cabinet Member for Planning, Infrastructure and Economic Development	07/09/2023

Will this be a Key Decision?	No
Urgency	Not Applicable
Final Decision-Maker	Cabinet Member for Planning, Infrastructure and Economic Development.
Lead Head of Service	Karen Britton/Phil Coyne
Lead Officer and Report Author	Helen Garnett
Classification	Public
Wards affected	All

Executive Summary

Consultation on the additional changes to the proposed review of the Kent Minerals and Waste Plan 2013-30 commenced on 13 June 2023 and will run through until 25 July 2023. MBC has submitted a draft response in order to meet this deadline, and has asked that a full formal response be provided after this meeting.

Purpose of Report

This is the third Regulation 18 consultation undertaken for this plan. Additionally, KCC is consulting on the amendments to the Kent Mineral Sites Plan – Nominated Hard Rock site allocation.

APPENDIX 3a – REPORT PROVIDED TO THE CABINET MEMBER

This report outlines the key additional Regulation 18 consultation changes proposed to the Kent Minerals and Waste Plan (2013-30). It also outlines proposed changes arising from the updated draft Minerals Sites Plan, including the extension of a site within Maidstone Borough. It recommends that members agree a formal response to the consultations, as drafted by officers and appended to this report.

This report has been presented following further information which came to light after the initial report was presented to the July PIED PAC.

This report makes the following recommendations to the Cabinet Member:

- 1.** That the proposed response to the Kent Minerals and Waste Plan Review consultation and the Kent Mineral Sites Plan Nominated Hard Rock Sites at Appendix 1 of this report be approved.
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MBC response to the Kent Minerals and Waste Plan and Kent Minerals Sites Plan reviews

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>Accepting the recommendations will enable the Council to ensure that plans at county council level do not materially harm its ability to achieve each of the corporate priorities.</p>	Head of Spatial Planning and Economic Development
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>The report recommendations support the achievements of the four, cross cutting objectives by ensuring that plans from a neighbouring authority do not materially harm the council's ability to achieve these objectives.</p>	Head of Spatial Planning and Economic Development
Risk Management	The recommendations seek to reduce the risk associated with the production of a Local Plan Review by ensuring that plans produced by the county council are not in conflict with our own and those set out in government policy.	Head of Spatial Planning and Economic Development
Financial	<ul style="list-style-type: none"> • The cost of responding to the consultation are all within already approved budgetary headings. • Any future recommendations / implication from the outcome of the consultation that have financial 	Mark Green and Adrian Lovegrove Section 151 Officer & Finance Team

APPENDIX 3a – REPORT PROVIDED TO THE CABINET MEMBER

	implications will need to be considered as part of the in-year financial monitoring or if future years as part of the budget process.	
Staffing	We will deliver the recommendations with our current staffing.	Head of Spatial Planning and Economic Development
Legal	As part of its duty to co-operate, the Borough Council must engage constructively, actively and on an ongoing basis with the County Council in the preparation of development plan documents in order to maximise the effectiveness of the activity of plan preparation. The Kent County Council are consulting with the Borough Council on an update/refresh to the Kent Minerals and Waste Plan 2013-30, which also forms part of Maidstone BC Local Development Plan Documents. The Borough Council has been consulted on and is responding to that consultation. Whilst there are no legal implications arising from the response, accepting the recommendations will help fulfil the Council's duties under s.33A of the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Planning) (England) Regulations (2012) as amended.	Cheryl Parks Mid Kent Legal Services (Planning)
Information Governance	The recommendations do not impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council Processes.	Georgia Harvey Information Governance
Equalities	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Nicola Toulson Equalities & Communities Officer
Public Health	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Public Health Officer
Crime and Disorder	The recommendation will not have a negative impact on Crime and Disorder.	Head of Spatial

APPENDIX 3a – REPORT PROVIDED TO THE CABINET MEMBER

		Planning and Economic Development
Procurement	The recommendation has no immediate impact on budget headings or expenditure in the current year.	Head of Spatial Planning and Economic Development Mark Green, Adrian Lovegrove. Section 151 Officer & Finance Team
Biodiversity and Climate Change	<p>The implications of this report on biodiversity and climate change have been considered and the listed updates are;</p> <ul style="list-style-type: none"> • The implications of this report show significant environmental and social impacts and is directly opposed to Action 6.7 of the Council’s Biodiversity and Climate Action Plan to ‘Increase borough canopy cover expanding ancient forests and reconnecting of existing woodland including urban woods, and greening town centres.’ • The proposed extension to Hermitage Quarry is on 64 hectares, and environmental impacts include: <ul style="list-style-type: none"> i) Substantial loss of Oaken Wood an ancient replanted woodland – ‘The southern part of the site is designated as Plantation on Ancient Woodland Soils (PAWS) which would be lost to development and potentially fragmenting the remaining woodland. The ancient woodland soil has biodiversity value.’ ii) Loss of grade 2 agricultural land, iii) Loss of a designated Local Wildlife Site, which contains ‘biodiversity priority habitats’, 	James Wilderspin Biodiversity and Climate Change Manager

	<p>iv) visual impacts to landscape in close proximity to the Kent Downs AONB,</p> <p>v) impact to aquifers and groundwater vulnerability,</p> <ul style="list-style-type: none"> • There are a number of residential dwellings, and social impacts recognised in the 'Draft Sustainability Appraisal Report – Regulation 18 Consultation' (May 2023) include 'If the mineral is transported by road, there is a greater likelihood of negative impacts on air quality and climate change, and negative impacts may be caused on congestion, noise and disturbance, depending on route and distance. The total distance transported is likely to lead to higher emissions overall.' 	
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2. INTRODUCTION AND BACKGROUND

2.1 This report sets out the key issues arising from the review of the Kent Minerals and Waste Plan 2023-38. The Minerals and Waste Plan was adopted in July 2016, with subsequent changes arising from an early partial review being adopted in 2020, for which KCC engaged with MBC through its statutory consultation process.

2.2 The matter had previously been considered at the July 2023 PIED PAC, however additional information came to light in advance of that meeting relating to environmental designations.

2.3 The Kent Minerals and Waste Plan forms part of the Development Plan for Maidstone and sets out planning policies relating to minerals supply and waste management. All applications on minerals and waste related development are assessed by Kent County Council against the adopted plan, and other types of development affecting minerals and waste sites are assessed by Maidstone Borough, having regard to the Kent Minerals and Waste Plan.

2.4 At the beginning of 2022, KCC undertook a Regulation 18 consultation on its plan, then a subsequent Regulation 18 consultation on the whole draft plan in December 2022 in respect to further changes. MBC has made representations to these consultations. Comments received at that consultation have now been considered for inclusion in these additional changes, which also respond to updated evidence. This consultation regards a small number of changes only and does not extend to a consultation on the whole plan.

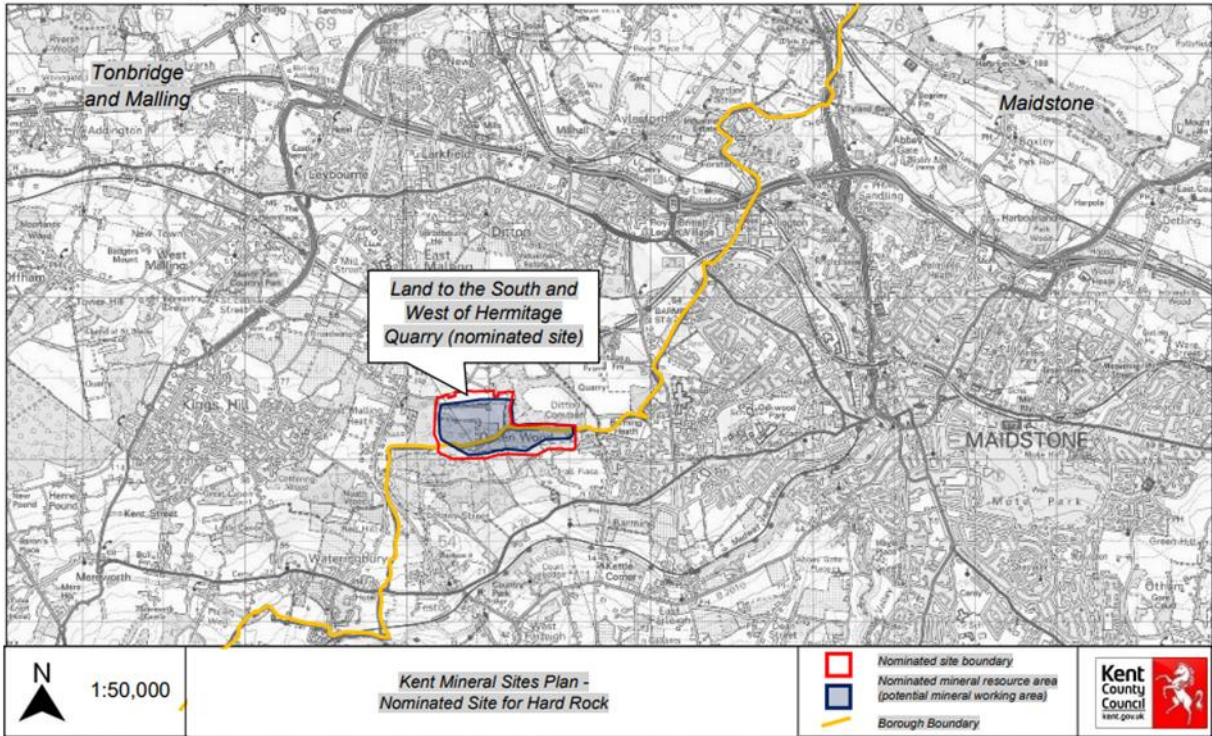
2.5 The full proposed amends can be found via this link: <https://letstalk.kent.gov.uk/kent-minerals-and-waste-local-plan>.

2.6 The main relevant changes proposed to this iteration of the Kent Minerals and Waste Local Plan involve the revision of mineral need over the plan period.

2.7 For soft sand the overall plan requirement has been increased in line with the extended plan period. The annual need remains the same. For hard rock, the total requirement over the plan period has increased. Consequently, further reserves will need to be allocated.

2.8 As a consequence of the latter change, the Kent Mineral Sites Plan has been updated to include further nominated hard rock allocations. The Sites Plan also updates the position in relation to Chapel Farm soft sand allocation in Lenham.

2.9 The additional hard rock allocation is located on land to the south and west of the existing Hermitage Quarry. The new allocation straddles the boundary of Maidstone Borough and Tonbridge and Malling Borough, with circa 2/5 of the allocation being sited within Maidstone.



2.10 The proposed allocation would abut the existing extraction site. The current extraction site, along with the proposed extension, lie within the Oaken Wood Local Wildlife Site and Ancient Woodland.

2.12 Paragraph 180 (a) of the NPPF states that LPA’s should apply the following principles in determining planning applications:
if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning should be refused.
Paragraph c also states:

“development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists”.

2.13 Furthermore, Policy DM3 of the adopted Maidstone Local Plan states that developers will ensure new development ‘protect positive landscape character, areas of Ancient Woodland... from inappropriate development and avoid significant adverse impact as a result of development.’ And in respect to locally designated sites of importance for biodiversity ‘avoid damage to and inappropriate development considered likely to have a significant direct or indirect adverse effects’.

2.14 It is noted that this is an extension of an established minerals site, part of which already occupies an area designated as ancient woodland. The designations are noted, and it would be appropriate for any permission be subject to a condition to restore any wildlife sites and ancient woodland once extraction has been completed.

2.15 A number of residential dwellinghouses lie within close proximity to the nominated site boundary, but it is noted that the actual extraction site would be set an appropriate distance from these dwellings. Notwithstanding this setback to the extraction site, Policy DM11 of the draft plan states that:

2.16 Minerals and waste developments will be permitted if it can be demonstrated that they are unlikely to generate unacceptable adverse impacts from noise, dust, vibration (including vibration from blasting), odour, emissions (including emissions from vehicles associated with the development), bioaerosols, illumination, visual intrusion, traffic or exposure to health risks and associated damage to the qualities of life and wellbeing to communities and the environment.

2.17 Therefore, the plan offers some surety that the amenity of nearby residential properties can be preserved, providing that broader policies within the plan are adhered to.

2.18 It is noted that the extended allocation lies within close proximity to a Site of Special Scientific Interest, and MBC would also be concerned the proposal should not have significant impact on this designation.

2.19 In respect to Chapel Farm, new text has been inserted setting out need and supply. The allocation has not changed, nor has the rate of extraction.

2.20 In summary, the proposed additional allocation at Hermitage Quarry could adversely impact on an area designated as Local Wildlife Site and Ancient Woodland. On this basis, Maidstone Borough Council request that any permission be subject to a condition requiring reinstatement of the Local Wildlife Site and Ancient Woodland.

3. AVAILABLE OPTIONS

3.1 Option 1: That the proposed response to this consultation at Appendix 1 of this report be approved.

3.2 Option 2: That the proposed response to the consultation is not approved. This would mean that KCC would continue production of its Development Plan Document without relevant and formal input from Maidstone Borough Council at this stage.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 For the reasons set out above, it is recommended that Option 1 is followed and that the proposed response as appended to this report is agreed.

5. RISK

5.1 The risk associated with these proposals, as well as any risks should the Council not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 Kent County Council has previously consulted on its Minerals and Waste Plan Review. At each consultation MBC has made representations on the proposed changes.

6.2 The matter was considered by the Planning, Infrastructure and Economic Development Policy Advisory Committee on 6 September 2023. The response at appendix 1 has been amended in response.

6.3 Committee members raised a number of concerns with regards to the extension of the quarry, principally these rested on the impact that the development would have on the Ancient Woodland.

6.4 Members additionally expressed concerns that the Sites Plan and associated evidence base provide insufficient information with respect to the exceptional circumstances that the impact on Ancient Woodland is outweighed by the need to identify local sites for the extraction of hard rock.

6.5 An alternative recommendation was made:

That the letter be withdrawn, and a new letter sent in its place using the wording provided by the woodland trust of: 'given unacceptable habitat lost, MBC are unable to support the proposed quarry extension'.

7. REPORT APPENDICES

7.1 The following documents are to be published with this report and form part of the report:

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- Appendix 1: MBC Response to the KCC Minerals and Waste Plan Regulation 18 consultation