

Lower Thames Crossing
6.3 Environmental Statement
Appendices
Appendix 11.6 – Material
Assets and Waste Legislation
and Policy

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Lower Thames Crossing

Appendix 11.6 – Material Assets and Waste Legislation and Policy

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1 Appendix 11.6 – Material Assets and Waste Legislation and Policy

1.1 Legislation and Policy

1.1.1 The material assets and waste assessment has been undertaken in accordance with relevant legislation, together with national, regional and local plans and policies.

Legislation

1.1.2 Relevant legislation that has been considered in the Environmental Assessment (ES) is presented in Table 1.1. The Planning Statement (Application Document 7.2) provides an assessment of the Project’s strategic alignment and conformity with the National Policy Statement for National Networks (NPSNN) (Department for Transport, 2014).

1.1.3 A number of the sources of legislation referred to throughout the ES, including this chapter, derive from the law of the European Union (EU). It is noted that the impact of European legislation may need to be revised following the UK’s exit from the EU but much EU-derived domestic legislation continues to have effect in domestic law. Relevant legislation is included in Table 1.1.

Table 1.1 Legislative requirements

Scale	Description of legislation
European	<p>Directive 2008/98/EC on Waste (Waste Framework Directive)</p> <p>The Waste Framework Directive (Wafd) contains the European Parliament and the Council of the European Union’s legal definition of waste, which is adopted by Member States. This definition is used to establish whether a material is classified as waste or not.</p> <p>Article 2 states that '<i>uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material will be used for the purposes of construction in its natural state on the site from which it was excavated</i>', are excluded from the scope of the Wafd.</p> <p>The Wafd mandates the use of the waste hierarchy in waste management (prevention, preparation for reuse, recycling, other recovery and disposal). In addition, it sets a target for increasing the recycling of non-hazardous construction and demolition waste to a minimum of 70% (measured by weight) by 2020 (Article 11).</p> <p>Annex III of Commission Decision of 18 November 2011, '<i>Establishing rules and calculation methods for verifying compliance with the targets set in Article 11(2) of Directive 2008/98/EC of the European Parliament and of the Council</i>' (2011/753/EU), sets out the methodology implemented when calculating construction waste diversion from landfill.</p>
	<p>Directive 1999/31/EC on the landfill of waste (Landfill Directive)</p> <p>The Landfill Directive establishes a framework for the management of waste across the European Union. It also defines certain terms, such as 'waste', 'recovery' and 'disposal', to ensure that a uniform approach is taken across the European Union.</p>

Scale	Description of legislation
	<p>European Regulation (EC) No 1272/2008, Classification, Labelling and Packaging</p> <p>Adopts and implements the United Nations global harmonised system of the classification and labelling of chemicals across the EU and the UK. The harmonised system supports the assessment of hazardous properties within wastes where the substance or product is unknown.</p>
National	<p>Environmental Permitting (England and Wales) Regulations 2016 (as amended)</p> <p>These regulations were created to standardise environmental permitting and compliance in England and Wales to protect human health and the environment. This includes permitting waste and recovery operations within the Order Limits and at offsite third-party facilities receiving waste. These regulations implement the Landfill Directive.</p>
	<p>Waste (England and Wales) Regulations 2011 (as amended)</p> <p>These regulations transpose the WaFD into English and Welsh law. The regulations require businesses to confirm that they have applied the waste hierarchy, introduce a new waste hierarchy permit condition and a two-tier system for waste carrier and broker registration.</p>
	<p>Environmental Protection Act 1990 (Part II)</p> <p>This act outlines the basic provisions for the management of all waste, which includes details on the definition of waste, and outlines the Duty of Care placed on those involved in managing wastes.</p>
	<p>Environment Act 2021</p> <p>This act has two main functions: to provide a legal framework for environmental governance in the UK and to bring into effect measures for the improvement of the environment in relation to waste, resource efficiency, air quality, water, nature and biodiversity and conservation.</p> <p>The Environment Act (2021) increases the Government's powers to manage the impact of products throughout their lifecycle and contains several provisions relating to waste that waste collection and waste disposal authorities will need to take account of. The act also creates powers for the Secretary of State (SoS) to make regulations to establish an electronic waste tracking system and gives the SoS the power to make regulations in connection with the regulation of hazardous waste in England.</p> <p>A target for resource efficiency and waste reduction is also proposed: <i>'Reduce residual waste (excluding major mineral wastes) kg per capita by 50% by 2042 from 2019 levels. It is proposed that this will be measured as a reduction from the 2019 level, which is estimated to be approximately 560 kg per capita.'</i></p>
	<p>Hazardous Waste (Miscellaneous Amendments) Regulations 2015</p> <p>These regulations transpose the WaFD with regards to hazardous waste into English and Welsh law. The regulations prohibit the mixing of hazardous and non-hazardous waste and require that a Hazardous Waste Consignment Note is produced for each consignment of hazardous waste removed from site.</p>

Policy

- 1.1.4 National policies are presented in Table 1.2, with the Project response to these requirements. Where there is duplication of requirements presented in the various relevant National Policy Statements, these have been combined and a single Project response to the policy issue is provided in the table.
- 1.1.5 Table 1.3 presents local policies that have been considered during the development of the Project and the DCO application.
- 1.1.6 Further detail on policy compliance can be found in the Planning Statement (Application Document 7.2).

Table 1.2 National policy and the Project response

Reference	Requirement	Project response
National Policy Statement for National Networks (NPSNN) (Department for Transport, 2014)		
Paragraph 5.42	<p><i>‘The applicant should set out the arrangements that are proposed for managing any waste produced. The arrangements described should include information on the proposed waste recovery and disposal system for all waste generated by the development. The applicant should seek to minimise the volume of waste produced and the volume of waste sent for disposal unless it can be demonstrated that the alternative is the best overall environmental outcome.’</i></p>	<p>The anticipated waste arrangements proposed for construction and operation are detailed in Table 1.1 and Table 1.2 of Appendix 11.5: Waste Assessment Supporting Data (Application Document 6.3).</p> <p>Section 11.5 of Chapter 11 Material Assets and Waste (Application Document 6.1) outlines how the proposed arrangements would minimise the volume of waste and the volume of waste sent for disposal.</p>
Paragraph 5.43	<p><i>‘The Secretary of State should consider the extent to which the applicant has proposed an effective process that will be followed to ensure effective management of hazardous and non-hazardous waste arising from the construction and operation of the proposed development. The Secretary of State should be satisfied</i></p>	<p>An effective process has been proposed to ensure effective management of hazardous and non-hazardous waste onsite and offsite, as described in Section 11.5 of Chapter 11 (Application Document 6.3).</p> <p>The volumes of hazardous and non-hazardous waste arising from construction and operation are forecast in Table 1.1 and Table 1.2 of Appendix 11.5: Waste Assessment Supporting Data (Application Document 6.3) and compared with the local, regional and national waste infrastructure capacity in Section 11.6 Chapter 11: Material Assets and Waste (Application Document 6.1).</p> <p>Chapter 11 shows that waste from the Project can be dealt with appropriately by the waste infrastructure, which is, or is likely to be, available. The assessment demonstrates that an adverse effect on the capacity of existing waste</p>

Reference	Requirement	Project response
	<p><i>that the process sets out:</i></p> <ul style="list-style-type: none"> • <i>any such waste will be properly managed, both on-site and offsite.</i> • <i>the waste from the proposed facility can be dealt with appropriately by the waste infrastructure which is, or is likely to be, available. Such waste arisings should not have an adverse effect on the capacity of existing waste management facilities to deal with other waste arisings in the area; and</i> • <i>adequate steps have been taken to minimise the volume of waste arisings, and of the volume of waste arisings sent to disposal, except where an alternative is the most sustainable outcome overall.</i> 	<p>management facilities, as a whole, to deal with other waste arisings in the area would not occur.</p> <p>The Project would require 2.95% of non-hazardous and inert landfill capacity in 2025 within Kent, Essex and ELWA. However, 70% of non-hazardous construction, demolition and excavation waste is calculated to be diverted from landfill. The assessment has shown this would require only 0.5% of the annual capacity of recycling and recovery facilities in the study area, which is unlikely to preclude the receipt of waste from other sources.</p> <p>There is one hazardous landfill which accepts asbestos waste within the study area. It is highly unlikely that Project hazardous waste (contaminated soils, coal tar road planings etc.) would be sent to this landfill. Should this hazardous waste require landfill disposal, it would be managed outside of the study area. The Project would require 0.33% of the available national hazardous waste capacity. It is therefore unlikely to adversely affect the capacity of existing waste management facilities to deal with other waste arisings.</p> <p>Section 11.5 of Chapter 11: Material Assets and Waste (Application Document 6.1) also outlines the steps taken towards waste minimisation through design, as well as targets to divert waste from disposal, except where an alternative is the most sustainable outcome overall.</p>
Paragraph 5.169	'Applicants should safeguard any mineral resources on the proposed	The Project has ensured the safeguarding of mineral resources by evaluating the likely impact on mineral safeguarding sites in the Mineral

Reference	Requirement	Project response
Paragraph 5.182	<p><i>site as far as possible.'</i></p> <p><i>'Where a proposed development has an impact on a Mineral Safeguarding Area (MSA), the Secretary of State should ensure that the applicant has put forward appropriate mitigation measures to safeguard mineral resources.'</i></p>	<p>Safeguarding Assessment Report (Application Document 6.3, Appendix 11.2).</p> <p>It is likely that the Project would lead to some sterilisation of minerals, however these areas of mineral sterilisation are likely to be discrete pockets in nature. Where avoidance of safeguarded mineral units has not been possible and in line with Paragraph 5.182 of the NPSNN, the Applicant has sought to identify appropriate mitigation measures.</p> <p>Relevant parties have been consulted to determine a suitable approach aimed at minimising the effects on, and safeguarding of, mineral resources within the Order Limits. A summary of consultation is included in Table 11.4 of Chapter 11: Material Assets and Waste (Application Document 6.1).</p>
<p>National Policy Statement for Energy (EN-1) (Department of Energy and Climate Change, 2011)</p>		
Paragraph 5.14.6	<p><i>'The applicant should set out the arrangements that are proposed for managing any waste produced and prepare a Site Waste Management Plan. The applicant should seek to minimise the volume of waste produced and the volume of waste sent for disposal unless it can be demonstrated that this is the best overall environmental outcome.'</i></p>	<p>The anticipated waste arrangements proposed for construction and operation are detailed in Table 1.1 and Table 1.2 of Appendix 11.5: Waste Assessment Supporting Data (Application Document 6.3).</p> <p>Section 11.5 of Chapter 11: Material Assets and Waste (Application Document 6.1) outlines how the proposed arrangements have sought to minimise the volume of waste produced and the volume of waste sent for disposal.</p>

Reference	Requirement	Project response
National Planning Policy Framework (NPPF) (Ministry of Housing, Communities and Local Government, 2021)		
Paragraph 8	<p>Paragraph 8 outlines the NPPF approach to sustainable development, listing economic, social and environmental objectives.</p> <p>The environmental objectives state: <i>‘an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.’</i></p> <p>The NPPF does not contain any other specific waste policies, as these are contained in the Waste Management Plan for England (Department for Environment, Food and Rural Affairs (Defra), 2013).</p>	Section 11.5 of Chapter 11: Material Assets and Waste (Application Document 6.1) outlines how circular economy principles have been embedded throughout the Project to manage resource use prudently and minimise waste.
Paragraph 209	Part 17 contains several provisions for ensuring a sufficient supply of minerals including:	The Project has ensured the safeguarding of mineral resources by evaluating the likely impact on mineral safeguarding sites in the Mineral Safeguarding Assessment report (Application Document 6.3, Appendix 11.2).

Reference	Requirement	Project response
	<p>defining MSA, encouraging the reuse of secondary and recycled aggregates and new primary mineral sites, as well as setting out criteria for associated planning permissions. The NPPF also makes provision for local authorities to undertake aggregate assessments to measure and provide adequate mineral landbanks. Authorities are encouraged to ensure adequate restoration of associated mineral workings.</p>	<p>It is likely that the Project would lead to some sterilisation of minerals, however these areas of mineral sterilisation are likely to be discrete pockets in nature. Where avoidance of safeguarded mineral units has not been possible and in line with Paragraph 5.182 of the NPSNN, the Applicant has sought to identify appropriate mitigation measures.</p> <p>An assessment of the Project's impacts on the Kent and Essex mineral landbank was provided to Kent County Council and Essex County Council (see Table 11.4 of Chapter 11: Material Assets and Waste, Application Document 6.3). A major impact is not anticipated from the construction phase.</p>
Waste Management Plan for England (WMPE) (Defra, 2021)		
N/A	<p>The WMPE provides an analysis of the current waste management situation in England and fulfils the mandatory requirements of Article 28 of the WaFD. The plan does not introduce new policies or change the landscape of how waste is managed in England. Its core aim is to bring current waste management policies under the umbrella of a single national plan.</p>	<p>Table 1.1 of Appendix 11.5: Waste Assessment Supporting Data (Application Document 6.3) outlines how construction waste would be recovered in line with the requirement of the WMPE and the forecast percentage of waste estimated to be diverted from landfill.</p> <p>At least 70% (by weight) of construction and demolition waste generated by the Project shall be subject to material recovery in accordance with the WaFD. Excess excavated material not utilised onsite is also included in this target.</p>

Reference	Requirement	Project response
	<p>The document states that the construction, demolition and excavation (CDE) sector is the largest contributing sector to total waste generation and commits the Government to recover at least 70% by weight of construction and demolition waste by 2020.</p>	
<p>Our Waste, Our Resources: A Strategy for England (HM Government, 2018)</p>		
<p>Section 1 and 3</p>	<p>The Strategy helps deliver the Government's 25 Year Environment Plan which sets out how the Government intends to preserve material resources by minimising waste, promoting resource efficiency and moving towards a circular economy.</p> <p>The plan outlines a strategy that includes the adoption of circular economy principles and identifies that some construction wastes in the future may be subject to Extended Producer Responsibility.</p>	<p>Section 11.5 of Chapter 11: Material Assets and Waste (Application Document 6.1) outlines how circular economy principles have been applied throughout the Project to manage resource use and reduce waste.</p>
<p>National Planning Policy for Waste (Department for Communities and Local Government, 2014)</p>		
<p>Section 8</p>	<p>This document sets out the</p>	<p>The Project has demonstrated the implementation of the waste hierarchy as follows:</p>

Reference	Requirement	Project response
	<p>Government's waste planning policies, enabling local authorities to put forward local waste plans and strategies.</p> <p><i>'When determining planning applications for non-waste development, local planning authorities should, to the extent appropriate to their responsibilities, ensure that:</i></p> <ul style="list-style-type: none"> <i>• 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.'</i> 	<ul style="list-style-type: none"> • Elimination: Section 11.5 of Chapter 11: Material Assets and Waste (Application Document 6.1) outlines how the volume of waste generated has been reduced in design. • Recovery (including preparing for reuse, recycling and other recovery): Table 1.1 of Appendix 11.5: Waste Assessment Supporting Data (Application Document 6.3) shows how the Project would divert at least 70% of non-hazardous waste from landfill and Section 11.6 of Chapter 11: Material Assets and Waste (Application Document 6.1) demonstrates an acceptable impact to the local recycling/recovery facility capacity. • Disposal: Section 11.6 of Chapter 11: Material Assets and Waste (Application Document 6.1) shows that the quantity of waste from the Project going to landfill would reduce the capacity in England by <1% and would be likely to represent 6.36% of the landfill capacity in the study area for non-hazardous and 0.15% for inert waste. It should be noted that of the 6.36% non-hazardous capacity utilised within the study area, approximately half of this is within the Order Limits and considered to be the best overall sustainable outcome. The likely impact of the Project on third-party sites and areas allocated for waste management is considered acceptable and the Project does not prejudice the implementation of the waste hierarchy.

Table 1.3 Local policies for material assets and waste

Strategy/plan	Policy or objectives
<p>Kent County Council Kent Minerals and Waste Local Plan 2013-2030 (Kent County Council, 2020)</p>	<p>CSM and CSW 1: Sustainable Development CSW 2: Waste Hierarchy CSW 3: Waste Reduction CSW 4: Strategy for Waste Management Capacity CSW 11: Permanent Deposit of Inert Waste CSW 13: Remediation of Brownfield Land CSM 5: Land-won Mineral Safeguarding DM 2: Environmental and Landscape Sites of International, National and Local Importance and Policy DM 7: Safeguarding Mineral Resources DM 9: Prior Extraction of Minerals in Advance of Surface Development</p>
<p>Medway Council Kent Minerals and Waste Local Plan 2013-2030 (Kent County Council, 2020)</p>	<p>The local authorities for Medway, Dartford and Gravesham have adopted the Kent Minerals and Waste Local Plan 2013-2030. Therefore, there are no additional objectives required by these local authorities. It is noted that consultation for the new Local Plan in Medway is underway, though the final version has not yet been published.</p>
<p>Gravesham Borough Council Kent Minerals and Waste Local Plan 2013-2030 (Kent County Council, 2020)</p>	
<p>Dartford Borough Council Kent Minerals and Waste Local Plan 2013-2030 (Kent County Council, 2020)</p>	
<p>Essex County Council Essex and Southend-on-Sea Waste Local Plan 2017 (Essex County Council, 2017)</p>	<p>SO1: Collaborative working for waste prevention SO2: Increase reuse, recycling and recovery SO3: Enhance existing waste infrastructure SO4: Self sufficiency SO6: Move waste up the hierarchy SO8: Suitable siting of waste infrastructure</p>
<p>Essex County Council Essex Minerals Local Plan (Essex County Council, 2014)</p>	<p>S1: Presumption in favour of sustainable development S2: Strategic priorities for minerals development S4: Reducing the use of mineral resources S5: Creating a network of aggregate recycling facilities S8: Safeguarding mineral resources and mineral reserves</p>
<p>Thurrock Council Thurrock Local Development Framework: Core Strategy and Policies for Management of Development (Thurrock Council, 2015)</p>	<p>CSTP29: Waste Strategy CSTP31 and CSTP32: Promote secondary aggregate and safeguard identified mineral resources Work on the proposed Minerals and Waste Local Plan is understood to have been suspended indefinitely.</p>

Strategy/plan	Policy or objectives
London Borough of Havering Joint Waste Development Plan for the East London Waste Authority Boroughs (East London Waste Authority, 2012)	W1: Sustainable waste management W4: Disposal of inert waste by landfilling W5: General Considerations with regard to Waste Proposals B: Meet targets in London Plan and Waste Strategy for England 2007
London Borough of Havering Core Strategy and Development Control Policies Development Plan Document (London Borough of Havering, 2008)	CP13: Mineral Extraction DC41: Re-Use and Recycling of Aggregates
Brentwood Borough Council Essex and Southend-on-Sea Waste Local Plan 2017 (Essex County Council, 2017)	The Local Plan for Brentwood adopts the Essex and Southend-on-Sea: Waste Local Plan and Essex Mineral Plan. No additional objectives are required by Brentwood Borough Council. It is noted that the Brentwood Local Plan (2016-2033) was submitted to the Secretary of State for review, but the final version has not yet been published.
Greater London The London Plan: The Spatial Development Strategy for London Consolidated with Alterations since 2021 (The Mayor of London, 2021)	Policy SI 7: Reducing waste and supporting the circular economy Policy SI 8: Waste capacity and net waste self-sufficiency Policy SI 9: Safeguarded waste sites Policy SI 10: Aggregates

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