

# Policy Evidence Report

## Policy 21: Water Management

**Hertfordshire Minerals and Waste  
Local Plan 2040**

**Hertfordshire County Council**



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# 1. Introduction

- 1.1. Hertfordshire County Council is reviewing its adopted Minerals Local Plan, Waste Local Plan and supporting documents. These comprise the following documents (with adoption date):
- Minerals Local Plan Review (March 2007)
  - Minerals Consultation Areas SPD (November 2007)
  - Waste Core Strategy and Development Management Policies DPD (November 2012)
  - Waste Site Allocations DPD (July 2014)
  - Employment Land Areas of Search SPD (November 2015)
- 4.1 The documents listed above are to be replaced by a single Minerals and Waste Local Plan (MWLP) covering the period to 2040. The new MWLP sets the overall spatial framework and development management policies for sustainable minerals and waste management development in Hertfordshire.
- 4.2 This Policy Evidence Report provides a context and justification for the creation of Policy 21: Water Management in the emerging Minerals and Waste Local Plan. It also contains a reasoning for the changes made to the policy between the Draft Plan publication and the Proposed Submission Plan publication.

## 2. National Policy Context

- 2.1. The National Planning Policy Framework (NPPF 2023) and National Planning Practice Guidance (PPG) provide the basis of national planning policy.
- 2.2. The following points within the NPPF relate to Policy 21:
- Paragraph 180 states that *'planning policies and decisions should contribute to and enhance the natural and local environment by: ... e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans'*.
  - Paragraph 191 explains that *'planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.'*
  - Paragraph 216 – *'Planning policies should: ... set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable*

*adverse impacts on the natural and historic environment or human health, taking into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality’.*

- Paragraph 217 – *‘When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy. In considering proposals for mineral extraction, minerals planning authorities should: ... b) ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality’.*

2.3. The PPG also includes a number of relevant sections:

- *‘The principal issues that mineral planning authorities should address, bearing in mind that not all issues will be relevant at every site to the same degree, include: ... surface and, in some cases, ground water issues; water abstraction.’*

*Minerals, Paragraph: 013 Reference ID: 27-013-20140306*

- *Water quality is only likely to be a significant planning concern when a proposal would: ... indirectly affect water bodies, for example, as a result of new development such as the redevelopment of land that may be affected by contamination, mineral workings, water or wastewater treatment, waste management facilities and transport schemes including culverts and bridges’.*

*Water Supply, Wastewater and Water Quality, Paragraph: 016 Reference ID: 34-016-20140306*

- *Plan-making may need to consider:*

- *how to help protect and enhance local surface water and groundwater in ways that allow new development to proceed and avoids costly assessment at the planning application stage. For example, can the plan steer potentially polluting development away from the most sensitive areas, particularly those in the vicinity of drinking water supplies (designated source protection zones or near surface water drinking water abstractions)*
- *where an assessment of the potential impacts on water bodies and protected areas under the Water Environment Regulations 2017 may be required, consider the type or location of new development*
- *whether measures to improve water quality, for example sustainable drainage schemes, can be used to address impacts on water quality in addition to mitigating flood risk’*

*Water Supply, Wastewater and Water Quality, Paragraph: 006 Reference ID: 34-006-20161116*

2.4. The National Planning Policy for Waste (NPPW) explains that waste planning authorities should consider the *‘protection of water quality and resources and flood risk management Considerations will include the proximity of vulnerable surface and*

*groundwater or aquifers. For landfill or land-raising, geological conditions and the behaviour of surface water and groundwater should be assessed both for the site under consideration and the surrounding area. The suitability of locations subject to flooding, with consequent issues relating to the management of potential risk posed to water quality from waste contamination, will also need particular care.'*

### **3. Local Context**

- 3.1. Hertfordshire overlaps two main river catchments: the Colne in the west and Upper Lee in the east, with several others at the extremities, such as the Thames Valley in the far west of the county.
- 3.2. The River Lee and its tributaries, which rise in Hertfordshire and flow south to the Thames, have a significant flood plain area, especially to the south - Bishop's Stortford, Ware and Hertford all lie on or immediately adjacent to the floodplain. There are a number of settlements along the flood plain on the Broxbourne-Epping Forest border, including Broxbourne and Cheshunt and there are additional floodplains along other rivers in the county. The county lies within two Environment Agency river basin districts, the Anglian and Thames.
- 3.3. Despite the rich water environment, the Anglian region is the driest region in England and Wales. The region exhibits large areas where no further water is available during summer and some areas where damage is already occurring.
- 3.4. A Strategic Flood Risk Assessment (SFRA) will accompany the MWLP to assess the flood risk to minerals and waste activities. Depending on the type and scale, minerals and waste development has the potential to impact the water environment and may not be acceptable in certain flood zones.
- 3.5. Hertfordshire County Council is also the Lead Local Flood Authority (LLFA) for the plan area. The LLFA will assess any planning application to determine its impact on flood management and whether Sustainable Drainage Systems (SuDS) will be required.

### **4. Minerals & Waste Local Plan Policy**

- 4.1. The Draft Minerals and Waste Local Plan was published for a Regulation 18 public consultation from 22 July to 31 October 2022. During the consultation period, members of the public, industry and other bodies were invited to comment on the policies within the Plan. This report shows the draft policy as published within the Draft Plan document, along with the main issues raised and the council's response to them.

## Minerals and Waste Local Plan Draft Plan 2022

4.2. The Regulation 18 Draft Plan document included Policy 21: Water Management. The policy read as follows:

### **Policy 21: Water Management**

Development proposals (including restoration and after-use) must take account of any potential impact on water supply, water quantity, water quality and flood risk. Proposals will be supported where it can be demonstrated that:

- a) there are no unacceptable adverse impacts to water quality, nature conservation and the amenity value of water resources;
- b) including reclamation of the site, they reduce flood risk, taking account of climate change allowances;
- c) proposals do not cause adverse impacts on the flow and quality of surface waters and groundwater on the site and elsewhere;
- d) development or operations on the site are directed away from areas of high risk of flooding;
- e) developments meet the national and local principles/standards for Sustainable Drainage Systems (SuDS) design to manage surface water run-off; and
- f) proposals conserve and enhance the water environment.

Where development is proposed in areas known to be at risk of flooding, either now or in the future, a sequential test and if necessary, an exception test, will need to be applied, taking account of climate change allowances. For all proposals in Flood Zones 2 or 3, or in Flood Zone 1 in accordance with national policy, a site-specific Flood Risk Assessment will be required.

4.3 During the Regulation 18 consultation, 7 representations were made in relation to this policy. The main issues of these are summarised below:

- a) It is suggested that the policy is expanded to include a reference to the impacts of diffuse pollution from mineral and waste sites and avoiding detrimental impacts on water quality and biodiversity.
- b) It is considered that there should be reference to climate change in the first paragraph of the policy.
- c) Under Criterion b), when considering flood risk, the content would benefit from reference to matters of protection, resilience and resistance.
- d) Under Criterion e), it is proposed that there is reference to no net increases in surface water run off during or after the development.
- e) It is suggested that clarification be included on how criterion f) can be fulfilled.

- f) Reference to the following should be included: to avoid adverse impact to groundwater flow and quality and to protect our current resources, there should be no new mineral development or waste sites allocated in SPZ1.
- g) The requirement under the Water Framework Directive that 'works should not lead to deterioration, in the quality of a water body or prevent the future improvement of a waterbody' should be incorporated into the supporting text.
- h) It is suggested that the statement 'opportunities have been sought to improve the water environment' be added so that enhancement is favoured over maintaining.
- i) The map referenced on page 85 is from 2016 and 7 years out of date and must be updated

4.4 The council's response to the main issues is as follows:

- a) Diffuse pollution would be considered an adverse impact and therefore, it is covered under criterion a) in the policy.
- b) Climate change is specifically referenced in the policy, and is also considered under Policy 1: Climate Change.
- c) Resilience is specifically mentioned in Policy 1: Climate Change. No change to Policy 21 is required.
- d) The Policy requires developments to meet local principles/standards for Sustainable Drainage Systems to manage surface water run-off. The Lead Local Flood Authority is also a statutory consultee who will advise further in this matter. Therefore no change suggested to policy.
- e) It is for the applicant to demonstrate that their proposals conserve and enhance the water environment, and for the decision-taker to assess this in the planning balance. It is not practical to provide clarification as to how this can be fulfilled.
- f) A footnote will be added to criterion c) to ensure applicants refer to The Environment Agency's approach to groundwater protection position statement.
- g) This will be added into the supporting text
- h) This is already covered under criterion f)
- i) The reference will be updated

## 5. Alternative Reasonable Options

5.2. The following reasonable alternative options have been considered (and fully assessed in the Sustainability Appraisal Report):

- Option 1 – A policy which requires applicants to take account of any potential impact on water supply, water quality and flood risk and demonstrate that there are no unacceptable adverse impacts on water resources
- Option 2 – Similar to Option 1 but which requires proposals to follow the sequential and exception tests and prepare a Flood Risk Assessment where appropriate (preferred)

## 6. Conclusion

- 6.1. This Policy Evidence Report demonstrates the justification for the inclusion of this policy in the emerging Minerals and Waste Local Plan Proposed Submission Plan. It summarises the national policy context and local context, along with the main issues raised through previous consultation and how the council has addressed those issues.
- 6.2. Any representations received on this policy at the Regulation 19 consultation stage will be submitted alongside the Local Plan to the Secretary of State as part of the examination process.
- 6.3. This Policy Evidence Report was written to support the Proposed Submission Plan (Regulation 19) consultation. This report forms part of the Regulation 22 statement, as set out by the Town and Country Planning (Local Planning) (England) Regulations 2012.