1. Introduction

The purpose of this topic paper is to provide information on the non-conventional extraction chapter of the Draft Minerals Local Plan (MLP), the reasons for its inclusion and the considerations that have been taken into account during its development.

This topic paper includes an outline of non-conventional extraction, planning policy and guidance related to non-conventional extraction, how other Mineral Planning Authorities have included relevant policies within their Local Plans and the approach taken within the Draft Minerals Local Plan.

2. What is Non-Conventional Extraction?

The majority of mineral extraction occurs in established quarries with the principal aim of supplying resources to traditional markets. However, for reasons of convenience and/or necessity, this isn’t always the case.

Mineral can be extracted from Borrow Pits. These are temporary extraction sites in close proximity to a non-mineral development where mineral is extracted for the exclusive use of that specific development. Commonly, this could be extraction of mineral for use in a nearby road construction scheme. The extraction would only take place for the duration of the road project and the mineral would not be transported elsewhere for use or sale.

Mineral extraction may also take place as a secondary, subordinate and ancillary element of a non-mineral development. This is called Incidental Extraction. The extraction would occur to enable the primary purpose of the development and the mineral is therefore a by-product of this other development. However, it could involve the extraction of significant quantities of mineral which would either require transportation off site or use on site. This could have significant environmental impacts. An example of this would be the construction of an agricultural reservoir to improve water supply for agricultural purposes, involving the extraction of mineral when reforming the shape of the land.

Both of these require focus on in the emerging MLP to make sure proposals are planned to a sufficient quality and are subject to appropriate planning controls and monitoring once granted permission.
3. Planning for non-conventional extraction

National Policy

The National Planning Policy Framework\(^1\) (NPPF) states that MPAs should plan for the steady and adequate supply of minerals in one or more of the following ways (in order of priority) designating Specific Sites, Preferred Areas, and/or Areas of Search.

However, it is acknowledged that applications could be submitted which propose the extraction of aggregate at non-designated sites/areas that could be appropriate when considering either the need for minerals or the environmental benefits of the combination of the non-mineral development and its associated extraction.

In these instances the extraction should be considered by the Mineral Planning Authority to assess the benefits and impacts of the proposal.

Adopted Minerals Local Plan

The adopted Minerals Local Plan (2007) does not contain policies related to extraction at borrow pits or incidental extraction as a subordinate element of a non-mineral development. Instead, applications would be determined under Minerals Policy 4: Applications Outside Preferred Areas which is outlined below:

<table>
<thead>
<tr>
<th>Mineral Policy 4: Applications Outside Preferred Areas</th>
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<tbody>
<tr>
<td>Applications to develop land for aggregate extraction outside of the Preferred Areas will be refused planning permission unless:</td>
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<tr>
<td>i) the landbank is below the required level and there is a need for the proposal to maintain the County’s appropriate contribution to local, regional and national need that cannot be met from the identified areas; and</td>
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<tr>
<td>ii) it can be demonstrated that the proposals would not prejudice the timely working of Preferred areas; or</td>
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<td>iii) the sterilisation of resources will otherwise occur.</td>
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The existing policy does not provide any specific wording related to borrow pits or incidental extraction so this will be a new inclusion in the emerging Plan. The policies have been promoted through correspondence with colleagues at County Council and officers at the borough/district councils within Hertfordshire to ensure that these types of mineral-developments are captured within the local planning system and can be sufficiently regulated by the appropriate planning authority.

4. Developing a Strategy for Non-Conventional Extraction

The inclusion of policies relating to Borrow Pits and Water Reservoirs was presented to consultees within the Initial Consultation document. No detail related to the content of policies was required at that stage of Plan production. The proposal to include policies was included as part of Issues 21 and 22 which sought to determine whether consultees regarded the proposed lists of Strategic and Development Management policy headings appropriate.

5. Initial Consultation representations

Very few comments were submitted relating to non-conventional extraction.

**Issue 21:**

**Does the list of strategic policy headings cover all the topics that should be included in the Minerals Local Plan?**

Whilst there was general consensus that the list of policy headings contained the necessary topics related to minerals planning, no comments were made related to non-conventional extraction.

**Issue 22:**

**Does the list of development management policy headings cover all the topics that should be included in the Minerals Local Plan?**

Whilst there was general consensus that the list of policy headings contained the necessary topics related to minerals planning, one comment was made related to the originally-proposed policy called ‘Water Reservoirs’, encouraging it to be broadened to cover all incidental extraction. This has since been implemented. Additionally, one response was submitted to Issue 14 stating that incidental extraction should be considered as a windfall site in a policy for extraction outside of specific sites and preferred areas.

See the next page for these two consultee responses to Issues 22 and 14.
<table>
<thead>
<tr>
<th>Comment ID.</th>
<th>Issue No.</th>
<th>Name of Consultee</th>
<th>Summary of Representation</th>
<th>HCC Response</th>
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<tbody>
<tr>
<td>MLPIC130</td>
<td>22</td>
<td>Cambridgeshire County Council (Ann Barnes)</td>
<td>Policy 15 could be broadened to cover all incidental mineral extraction (not just reservoirs); this could pick up fish farms and marinas for example. Is airport safeguarding an issue in Hertfordshire e.g. the need for bird management plans? Could biodiversity also include Geodiversity if there are geological interests in the County? Is a policy on ancillary development useful e.g. limiting ancillary developments to the life of the quarry?</td>
<td>It is anticipated that the policy on Water Reservoirs will cover all developments causing incidental mineral extraction but with an emphasis on ensuring that sustainable water supplies are not affected by the increased impacts of climate change.</td>
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<tr>
<td>MLPIC220</td>
<td>14</td>
<td>D K Symes Associates (D K Symes)</td>
<td>Incorporate windfall sites into a policy for sites outside of specific sites and preferred areas. Unclear definition of windfall sites. If prior extraction - cover this by a policy. Caution needed as insisting on prior extraction may result in non-mineral development not taking place, then nobody wins. Windfall is site where minerals have to be excavated as integral part of the development (reservoirs, marinas, fishing lakes). Should be policy for mineral sites outside of preferred areas.</td>
<td>See General Statement It is also proposed that it may be appropriate for the MLP to include two policies, one for MSA &amp; MCAs and a second policy for mineral sterilisation in which prior extraction would be encouraged on sites for non-mineral development to prevent sterilisation. It is recognised that these policies are related to similar issues. However supporting text can be incorporated to provide clear guidance as to the aim and context of the policy. It is proposed that separate policies are included for reservoirs and borrow pits, however this is still subject to further consultation.</td>
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6. Other Mineral Authority Examples

As well as looking at Hertfordshire’s own plans and consultee responses, it is important to examine other mineral planning authority approaches as best practice. The table below outlines some of the numerous policy approaches included within other adopted Minerals Local Plans.

One Local Plan (Essex) categorises non-conventional extraction as a type of extraction outside of Preferred Sites. The policy states that an overriding justification or benefit must be demonstrated for the extraction to be granted permission. The majority of other Plans contain policies about non-conventional extraction specifically. A couple of these (Bedfordshire, Cambridgeshire) state specific kinds of non-conventional extraction whereas others (Kent, Leicestershire) group all kinds together as Incidental Extraction. One Plan (Nottinghamshire) contains an Incidental Extraction policy and a separate Borrow Pit policy. These policies cover a range of issues such as location, timescales, quantity, and environmental impacts.

<table>
<thead>
<tr>
<th>Local Plan</th>
<th>Non-Conventional Extraction Policies</th>
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<tbody>
<tr>
<td>Essex Minerals Local (adopted 2014)</td>
<td><strong>Policy S6 - Provision for sand and gravel extraction</strong>&lt;br&gt;The Mineral Planning Authority shall endeavour to ensure reserves of land won sand and gravel are available until 2029, sufficient for at least 7 years extraction or such other period as set out in national policy.&lt;br&gt;&lt;br&gt;The working of Reserve sites will only be supported if the landbank with respect to the overall requirement of 4.31mtpa is below 7 years.&lt;br&gt;&lt;br&gt;Mineral extraction outside Preferred or Reserve Sites will be resisted by the Mineral Planning Authority unless the applicant can demonstrate:&lt;br&gt;&lt;br&gt;a. An overriding justification and/or overriding benefit for the proposed extraction, and,&lt;br&gt;b. The scale of the extraction is no more than the minimum essential for the purpose of the proposal, and,&lt;br&gt;c. The proposal is environmentally suitable, sustainable, and consistent with the relevant policies set out in the Development Plan.</td>
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<tr>
<td>Bedford Borough, Central Bedfordshire and Luton Borough Councils Minerals and Waste Local</td>
<td><strong>Mineral Strategic Policy MSP 9</strong>&lt;br&gt;&lt;br&gt;<strong>Borrow Pits</strong>&lt;br&gt;Borrow Pits will be permitted where they meet the following criteria:&lt;br&gt;&lt;ul&gt;&lt;li&gt;The site is required to supply minerals to specific major construction works;&lt;/li&gt;&lt;li&gt;The site is well related geographically to the project it is intended to supply;&lt;/li&gt;&lt;li&gt;The borrow pit will serve the related project only.&lt;/li&gt;&lt;/ul&gt;</td>
</tr>
</tbody>
</table>
| Plan: Strategic Sites and Policies (Adopted Jan 2014) | and will not provide material for the wider market or be retained beyond the life of the project it serves;  
- The borrow pit will bring about the removal of mineral and/or waste traffic movements from the public highway and/or from passing local communities;  
- The borrow pit will be restored within a similar timescale as the project to which it relates, and restoration can be achieved to an approved scheme in the event that it is only partly worked;  
- Waste materials will only be imported from the project itself unless required to achieve beneficial restoration as set out in an approved scheme;  
- There is an overall environmental benefit as a result of the proposal and appropriate mitigation measures will be put in place to minimise any adverse environmental impacts’. |
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| Cambridgeshire and Peterborough Minerals and Waste Core Strategy (Adopted July 2011) | **CS42 Agricultural Reservoirs, Potable Water Reservoirs and Incidental Mineral Extraction**  
Proposals for new or extensions to existing agricultural reservoirs, potable water reservoirs, or development involving the incidental extraction and off site removal of mineral, will only be permitted where it can be demonstrated:  
  a. there is a proven need for the proposal  
  b. that any mineral extracted will be used in a sustainable manner  
  c. where the proposal relates to a reservoir, the design minimises its surface area by maximising its depth  
  d. the minimum amount of mineral is to be extracted consistent with the purpose of the development  
  e. the phasing and duration of development proposed adequately reflects the importance of the early delivery of water resources or other approved development  
The determination of planning applications will have regard to the objectives of the mineral and waste spatial strategies in this Plan. |
7.19.1 Policy DM 21 seeks to provide certainty that proposals for incidental mineral extraction will be permitted provided that operations do not cause unacceptable adverse impacts to the environment or communities.  
**Policy DM 21** |
Planning permission for mineral extraction that forms a subordinate and ancillary element of other development will be granted provided that operations are only for a temporary period. Where planning permission is granted, conditions will be imposed to ensure that the site can be restored to an alternative after-use in accordance with Policy DM 19 should the main development be delayed or not implemented. |
|---|---|
| Incidental Mineral Extraction
5.81 Occasionally mineral extraction can arise away from established sites, occurring as a secondary activity to other development proposals that involve excavations. These may include the creation of water bodies but could relate to major construction projects or the extraction of other minerals. Generally the recovery of such minerals accords with the sustainable objectives for mineral development through the efficient use of minerals and preventing unnecessary sterilisation, providing that their recovery can be achieved in an acceptable manner. |
Planning permission for mineral extraction that forms a subordinate and ancillary element of other development will be granted provided that:
(a) there are no unacceptable environmental or other impacts resulting from mineral extraction;
(b) there are adequate interim reclamation measures to allow for possible delays or non-implementation of the primary development;
(c) the mineral extraction is of a limited nature and short |
| Nottinghamshire Minerals Local Plan (2006) | Chapter 14 Incidental Mineral Extraction and Borrow Pits
POLICY M14.1 INCIDENTAL MINERAL EXTRACTION
Planning permission for the extraction of minerals as a necessary element of other development proposals on the same site will be granted provided that:
(a) there are no unacceptable environmental or other impacts resulting from mineral extraction;
(b) there are adequate interim reclamation measures to allow for possible delays or non-implementation of the primary development;
(c) the mineral extraction is of a limited nature and short
POLICY M14.3 BORROW PITS
The County Council will only permit borrow pits where:
(a) there are overriding environmental or other planning benefits compared to obtaining materials from alternative sources;
(b) alternative materials of the required specification are unavailable in sufficient quantities;
(c) they are contiguous with or close to the projects they are intended to serve;
(d) they are time-limited to the life of the project and material is to be used only for the specified project;
(e) proposals include appropriate reclamation measures which make full use of surplus spoil from the project.

7. Way forward for the Draft Plan

Following correspondence with other mineral planning authorities in line with the Duty to Cooperate, colleagues at County Council and officers at the borough/district councils within Hertfordshire, the draft policy wording below was developed. The policies have been incorporated into Chapter 11: Non-conventional Aggregate Extraction of the Draft MLP. It aims to ensure that there are valid and sufficient reasons for non-conventional extraction, that the location and timescales involved are appropriate, and that safeguards are put in place to ensure that the benefits of the extraction are assessed against the environmental issues.

Policy 11: Borrow Pits

Proposals that require the use of borrow pits will be permitted where all of the following can be demonstrated:

- the site’s proximity to the construction project is more sustainable than importing aggregate;
- the mineral extraction is being used solely for the intended construction scheme;
- the borrow pit will not be retained longer than the life of the construction project it serves;
- the borrow pit will be restored expediently and at least within the same timescale as the completion of the construction project it relates to;
- restoration of the borrow pit can be achieved without the need for imported material other than that generated from the associated construction project; and
- the proposals are consistent with other policies within this Plan.
Policy 12: Incidental Extraction

Proposals for development involving the incidental extraction of mineral as a subordinate and ancillary element of other development outside of Specific Sites and Preferred Areas will only be permitted where it can be demonstrated that:

- there is a proven need for the non-mineral development;
- the amount of mineral to be extracted is consistent with the purpose and scale of the development;
- the extracted mineral will be put to sustainable use;
- the transportation of extracted mineral to processing sites will not have a significant adverse impact on highways safety and the effective operation of the highway network;
- the phasing and duration of development proposals guarantee the worked land is restored as early as practicable and without the need for imported material; and
- the proposals are consistent with the other policies within this plan.

Applicants must submit details of the location where extracted minerals will be transported for processing, where appropriate, and the proposed use of extracted minerals.

The county council will expect a Working Plan to be submitted, providing details of how and when the non-mineral developments are to be undertaken and completed.