

Topic paper for the review of the
Hertfordshire County Council Minerals Local Plan

Environmental Policies

Version 2 - November 2018

1. Introduction

The purpose of this topic paper is to provide background information on the development of the Environmental Policies Chapter within the emerging Minerals Local Plan (MLP).

This topic paper has been updated since the Draft Plan consultation, in advance of the publication of the Proposed Submission Minerals Local Plan. It comprises an introduction to the existing policies within the adopted Minerals Local Plan, updated requirements of national planning policy since the existing policy was adopted, an explanation of how the policies have been consulted on and subsequently developed, the approach of other mineral planning authorities to planning for environmental issues, and the approach taken within the Draft MLP.

2. The Adopted Minerals Local Plan

The existing Minerals Local Plan (adopted 2007) contains policies and supporting text on Bio-diversity, Landscape, and Criteria for the Control of Mineral Development to Protect Critical Capital and Other Environmental Assets.

The individual policies are as follows:

MINERALS POLICY 9 ~ CONTRIBUTION TO BIO-DIVERSITY

Proposals for mineral development should, where appropriate, provide opportunities to contribute to the delivery of the national, regional, and local biodiversity action plan targets. Additionally, proposals that prejudice the delivery of these targets or would result in the loss of, or damage to habitats and/or species will not be supported. Where appropriate, the minerals planning authority will seek long-term overall enhancement to local biodiversity through restoration or by other means such as by the attachment of conditions or planning obligations.

MINERALS POLICY 12 ~ LANDSCAPE

All mineral extraction and related development proposals will be required to take account of existing and, where appropriate, historic landscape character

and maintain its distinctiveness. Planning applications may be refused where there is significant local landscape intrusion and loss of important landscapes or distinctive landscape features.

Development proposals will be expected to:

- i) respect landscape character both during operations and in proposals for reclamation;
- ii) ensure that any distinctive landscape features are protected from the impact of development;
- iii) be accompanied by landscape conservation, design and management measures that both strengthen the character and enhance the condition of the landscape.

The County Council will have regard to the visual impact of proposals (including any proposed mitigation measures to minimise visual or other intrusion) on sensitive landuses, including areas of public access.

Particular regard will be had to the Hertfordshire Landscape Strategy in assessing proposals.

MINERALS POLICY 17 ~ CRITERIA FOR THE CONTROL OF MINERAL DEVELOPMENT TO PROTECT CRITICAL CAPITAL AND OTHER ENVIRONMENTAL ASSETS

All proposals for mineral extraction and related development (including after uses):

- i) shall not be permitted where they would result in the permanent loss or damage or significant and irreversible change to those particular characteristics and features that define the special quality of critical capital or other environmental assets as defined in the Structure Plan (the degree of protection given will be appropriate to status according to their international, national or local importance);
- ii) shall include proposals for mitigation, where appropriate, that will provide for the maintenance and enhancement of critical capital or other environmental assets as defined in the Structure Plan, including where temporary loss would occur;
- iii) shall not be permitted if the development would cause the permanent loss in quality or extent of the best and most versatile agricultural land unless there is an overriding need for the development, and either sufficient land in lower grades is unavailable, or available lower grade land has an environmental value which outweighs the agricultural considerations;
- iv) shall not be permitted if the development and/or subsequent afteruse would have a negative quantitative and/or qualitative impact on the water environment, including main rivers, ordinary water courses and groundwater

resources, unless appropriate measures can be imposed to mitigate any harmful effects;

v) shall not be permitted if the development would increase the risk of flooding or have a material negative impact on the storage or flow capacity of the floodplain, unless the risk or impact can be obviated;

vi) shall not be permitted in the Chilterns Area of Outstanding Natural Beauty unless exceptional circumstances indicate otherwise;

vii) shall not result in the net reduction in either the quantity or quality of woodland, trees or hedges, whether directly or indirectly. Where quantity or quality is lost, redress in equivalent measures will be sought, with species to be agreed with the mineral planning authority, so as to recreate a suitable landscape and habitat sympathetic to the proposed restoration scheme and afteruse. Enhancement of existing woodland, trees and hedges through improved management will be sought. Development proposals must ensure the appropriate management of both retained vegetation cover such as trees and hedgerows, and new planting over the long term.

3. Current National Planning Policy

Since the adoption of the current Minerals Local Plan in 2007, the planning system has undergone significant changes, with the introduction of the National Planning Policy framework (NPPF) in 2012.

The NPPF 2012 set out requirements for the protection and/or enhancement of the natural environment.

The NPPF was revised in July 2018 to take into account and implement changes in the planning system, in particular those surrounding the planning of housing, which had been made through previous papers including the Housing White Paper, The Planning for The Right Homes in the Right Places consultation and the Draft revised NPPF consultation.

Paragraph 170 of the NPPF sets out the overarching environmental requirements of the planning system:

'Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

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; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.'

Paragraph 171 goes on to state that:

'Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework⁵³; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.'

The rest of Chapter 15 of the NPPF: Conserving and Enhancing the Natural Environment sets out further considerations, guidance and aims.

4. Reviewing other Mineral Planning Authorities Local Plans

In revising the Minerals Local Plan it is important to review other, more recently adopted Minerals Local Plans. This helps to identify gaps in the adopted Minerals Local Plan policies and provides examples of how national policy requirements have been implemented into local policy. In reviewing other environmental policies within Minerals Local Plans, more recently adopted plans were considered, adopted 2014-2016.

The approaches varied from having broad all-encompassing policies to having large quantities of specific policies covering individual issues. The Draft MLP will contain a middle ground approach with a few key environmental policies containing a reasonable but not-exhaustive array of environmental requirements.

5. Initial Consultation Stage

The existing Plan was adopted prior to the introduction of the NPPF in 2012. The review of the MLP has presented an opportunity to revisit the environmental policies within the emerging MLP and incorporate the updated requirements of national policy in the local context.

Environmental assessment research methods have developed since the adoption of the MLP so the existing policies require strengthening to enable the Minerals Planning Authority to request applicants to submit more and/or different assessments at an application stage e.g. Flood Risk Assessment. This will help to ensure that adverse impacts from proposed developments on amenity, wildlife habitats and the natural and built environment are properly assessed and mitigation measures are put in place where necessary.

To establish the appropriate policies to be included within the review of the MLP, it was important to engage the Development Management officers who utilise the policies to determine planning applications. As such after reviewing national policy and other mineral planning authority Local Plans, a meeting was held with Development Management officers at the County Council to discuss the policies to be included. The conclusions from this work led to the presentation of a list of environment related policies within a larger group of 'Development Management Policies'.

The following Environmental Policy headings were included in the Initial Consultation document:

- Policy 18: Water Resource
- Policy 19: Heritage and Setting
- Policy 20: Landscape
- Policy 21: Biodiversity
- Policy 22: General Environmental and Amenity Protection

There was a general consensus within the representations that the list of environmental policies contained the necessary topics related to minerals planning. Only the list was considered at this stage rather than the content of the policies.

Subsequent Informal Consultation

This stage sought advice from Development Management officers and officers from outside the planning department on the wording of a group of draft policies.

This led to changes in policy wording as well as minor changes to policy headings. For example, the Water Resources policy became the Water Management policy and the Heritage and Setting policy became the Historic Environment policy.

These comments were incorporated where considered appropriate and presented to planning officers at the 10 district/borough councils within

Hertfordshire as well as officers at the Environment Agency, Historic England and Natural England for further informal comments prior to the Draft Plan consultation.

There was general consensus that the policies covered the correct issues and contained appropriate wording. Minor amendments were made to some of the environmental policies without changing the focus or processes of the original drafts.

6. Draft Plan Consultation Stage

The following environmental policies along with supporting text were developed for the Draft MLP which were grouped together in Chapter 13: Environmental Policies:

Policy 15: Water Management

Proposals for mineral extraction and associated development, including restoration, will be required to take into account the impact on water supply, water quality and flood risk. Proposals will be permitted where it can be demonstrated that:

- **there is no adverse impact to water quality, nature conservation and amenity value of water resources from the proposed development;**
- **the proposals reduce flood risk, taking account of climate change allowances, and do not cause adverse impacts on the flow and quality of surface and groundwater on the site and elsewhere;**
- **development or operations on the site are directed away from areas of high risk of flooding;**
- **developments meet the National and Local principles/standards for Sustainable Drainage Systems (SuDS) design to reduce surface water run-off; and**
- **restoration of the site will enhance water management and alleviate the risk of flooding.**

Policy 16: Historic Environment

Proposals for mineral extraction and associated development will be permitted where it can be demonstrated that the proposal will protect, conserve and where appropriate enhance the historic environment.

Proposals will be required to describe the significance of any heritage assets affected by the proposals, including any contribution made by their setting, integrity and distinctiveness and the level of the impact within a Heritage Statement. The assessment should use relevant historic, archaeological, environmental and heritage asset records and

appropriate expertise, where necessary, and inform mitigation measures proportionate to the affected heritage assets' importance.

The county council will expect developers to record the evidence and make any archives and subsequent assessment publically accessible to promote the understanding of the heritage asset.

Policy 17: Landscape and Green Infrastructure

Proposals for mineral extraction and associated development must take into account the existing landscape and should protect and/or enhance the landscape character, quality and visual amenity.

Proposals for mineral extraction and associated development will be permitted where it can be demonstrated that throughout the life time of the development (including restoration):

- **there is no unacceptable landscape intrusion or loss of distinctive landscapes;**
- **the visual impact has been minimised through appropriate landscape and visual mitigation;**
- **the protection of designated landscapes (e.g. AONB) and sites (e.g. Ancient Woodlands) are maintained;**
- **continued long term improvements are made to the wider ecological networks and green infrastructure; and**
- **the landscape is strengthened, enhanced and the highest practicable environmental standards are achieved.**

Proposals must assess the landscape character, quality and visual impact through a full Landscape and Visual Impact Assessment with reference to the Hertfordshire Landscape Character Assessment, other future relevant assessments and where appropriate the relevant management plan and landscape character assessment for AONB and Regional Park.

Policy 18: Biodiversity

Proposals for mineral extraction, associated development and restoration must provide opportunities for the delivery of the national and local biodiversity aims for net gains for biodiversity. The existing baseline conditions of ecological networks where evident, the Hertfordshire Strategic Green Infrastructure Plan and the relevant local plans for Green Infrastructure should be taken into account.

Proposals for mineral extraction and associated development will be permitted where it can be demonstrated that throughout the life time of the development (including restoration):

- **the impact on biodiversity through loss of or damage to habitats and/or species is minimised;**
- **there is a net gain in biodiversity, during restoration and aftercare, where appropriate;**
- **biodiversity networks can be enhanced and contribute to the wider ecological networks and local green infrastructure;**
- **there is no irreversible or significant adverse impact on International and National statutory nature conservation sites (Special Areas of Conservation, Special Protection Areas, Ramsar sites, National Nature Reserves, Sites of Special Scientific Interest);**
- **the protection of priority habitats (including Ancient Woodlands, Veteran trees and priority species) is promoted and maintained;**
- **adequate mitigation is in place to compensate for irreversible damage or loss of European Protected Species including their place of rest/shelter.**

Proposals must submit an ecological survey and scheme for monitoring the biodiversity within the site prior to, during and after extraction.

Policy 19: Protection and Enhancement of Environment and Amenity

Proposals for mineral extraction and associated development will be permitted where all of the following are clearly demonstrated:

- **consideration has been given to the natural, built and historic environment, public health and safety, quality of life and amenity;**
- **assessments have shown there will not be any unacceptable adverse impacts or harm to the natural, built and historic environment and amenity;**
- **appropriate mitigation measures have been incorporated to protect the natural, built and historic environment and amenity; and**
- **where possible, enhancements have been made to the natural, built and historic environment and amenity.**

It was not always clear to consultees where a particular issue would be included within policy so the policy headings were reviewed prior to the publication of the Draft MLP to ensure clarity.

A total of 2,578 consultees responded to the consultation on the Draft Minerals Local Plan, submitting a total of 3,252 individual representations between them.

Consultees included all of the District and Borough Councils, a selection of Parish Councils and adjoining authorities, industry representatives and a significant number of local residents.

7. Minerals Local Plan Proposed Submission Document

The next stage in the Minerals Local Plan review involved re-drafting the document from 'Draft Plan' stage to 'Proposed Submission' stage, to take into account (where possible) the feedback received from the consultation on the Draft Mineral Local Plan as well as changes to national policy.

A number of responses received in response to the proposed draft environmental policies resulted in further strengthening of policies in the Proposed Submission document and the addition of the health and wellbeing policy within chapter 13: Environmental Policies.

The environmental policies are proposed as follows:

Policy 14: Water Management

Proposals for mineral extraction, associated development and reclamation will be required to take into account the impact on water supply, water quality and flood risk. Proposals will be permitted where it can be demonstrated that:

- **there are no unacceptable adverse impacts to water quality, nature conservation and amenity value of water resources from the proposed development;**
- **the proposals, including reclamation of the site, reduce flood risk, taking account of climate change allowances;**
- **proposals do not cause adverse impacts on the flow and quality of surface water and groundwater on the site and elsewhere;**
- **development or operations on the site are directed away from areas of high risk of flooding;**
- **developments meet the National and Local principles/standards for Sustainable Drainage Systems (SuDS) design to reduce surface water run-off; and**

- **restoration of the site will conserve and enhance water management.**

Policy 15: Historic Environment

Proposals for mineral extraction, associated development and reclamation will be permitted where it can be demonstrated that the proposal will protect, conserve and where appropriate enhance the historic environment.

Proposals will be required to describe the significance of any heritage assets affected by the proposals, including any contribution made by their setting, integrity and distinctiveness and the level of the impact within an appropriate desk-based assessment and, where necessary, a field evaluation, which is linked to a Landscape and Visual Impact Assessment where necessary. The assessment should use relevant historic, archaeological, environmental, the Historic Environment Record and appropriate expertise, where necessary, and inform mitigation measures proportionate to the affected heritage assets' importance.

The county council will expect developers to record the evidence and make any archives and subsequent assessment publically accessible to promote the understanding of the heritage asset.

Policy 16: Landscape and Green Infrastructure

Proposals for mineral extraction, associated development and reclamation must take into account the existing landscape and green infrastructure, and should protect and/or enhance the landscape character, quality, visual amenity and green infrastructure.

Proposals for mineral extraction and associated development will be permitted where it can be demonstrated that throughout the life time of the development (including restoration):

- **there are no unacceptable landscape and visual effects ;**
- **any unavoidable landscape and visual effects have been minimised through appropriate mitigation;**
- **valued landscapes are protected and enhanced;**
- **continued long term improvements are made to the wider ecological networks and green infrastructure; and**

- after reclamation, the landscape is conserved and enhanced and the highest practicable environmental standards are achieved.

Proposals must assess the landscape character, quality and visual effects of the development through a full Landscape and Visual Impact Assessment with reference to current landscape character assessments, green infrastructure strategies and management plans for the area.

Policy 17: Biodiversity

Proposals for mineral extraction, associated development and reclamation should be consistent with national and local biodiversity policies and guidance, informed by existing and new ecological information as necessary and green infrastructure plans.

In line with the mitigation hierarchy, proposals for mineral extraction and associated development will be permitted where it can be demonstrated that throughout the life time of the development (including restoration):

- the impact on biodiversity through loss of or damage to habitats and/or species is minimised;
- there is a measurable net gain in biodiversity, during restoration and aftercare, demonstrated by an acceptable method;
- biodiversity networks can be enhanced and contribute to the wider ecological networks and local green infrastructure;
- there are no irreversible or unacceptable impacts on International, National and Local statutory nature conservation sites (e.g. Special Areas of Conservation, Special Protection Areas, Ramsar sites, National Nature Reserves, Sites of Special Scientific Interest);
- there is no loss or deterioration of irreplaceable habitats including ancient woodlands, veteran trees;
- the requirements of protected species can be fully and satisfactorily demonstrated at all stages of the development; and
- adequate mitigation is in place to compensate for irreversible damage or loss of European Protected Species including their place of rest/shelter.

Proposals must submit an acceptable ecological survey and scheme for monitoring the biodiversity within the site prior to, during and after extraction.

Policy 18: Protection and Enhancement of Amenity

Proposals for mineral extraction and associated development will be permitted where they are accompanied by an assessment which clearly demonstrates that consideration has been given to amenity, which includes the natural, built and historic environment, public health and safety, and quality of life. The assessment must show that:

- **proposals will not cause any unacceptable adverse impacts or harm to amenity;**
- **appropriate mitigation measures have been incorporated to conserve amenity; and**
- **where possible, enhancements have been made to amenity.**

Policy 19: Health and Wellbeing

Where appropriate, proposals for mineral extraction, associated development and reclamation will be permitted where it can be clearly demonstrated:

- **that the potential health impacts have been adequately assessed;**
- **how the proposals offer enhanced access to the natural environment; and**
- **how the reclamation will contribute to positive health and wellbeing outcomes.**

8. Next Steps

The county council intends to submit the Proposed Submission Minerals Local Plan and all representations received to the Secretary of State for independent Examination.

An independent Planning Inspector will be appointed to hold an 'Examination in Public' for the emerging Minerals Local Plan. The Planning Inspector will review all representations submitted in response to the publication of the Proposed Submission Plan and will assess the Minerals Local Plan against all relevant legislation and national Policy requirements. The county council may need to make modifications to the emerging Minerals Local Plan throughout this process, in response to the discussions at the Examination in Public.

Following the conclusions of the Examination in Public, the council will consult on any modifications which accompany the Inspector's Report and then adopt the new Minerals Local Plan.

The table below sets out the next steps for the emerging Minerals Local Plan, following the ten week publication of the Proposed Submission Minerals Local Plan Document.

Table 1 – Minerals Local Plan Review Timetable

Summer 2019	Submission
Autumn 2019	Examination
Winter 2019	Inspector's Report
Winter 2019 / Spring 2020	Finalisation
Summer 2020	Adoption