

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

Mineral Safeguarding Topic Paper

Version 2 - November 2018

1. Introduction

The purpose of this topic paper is to provide information on how the new 'Safeguarding' chapter has come to be included within the emerging Minerals Local Plan. It specifically focuses on the 'Mineral Safeguarding' Policy of the 'Safeguarding' chapter (the chapter contains other policies, the evolution of which is explained within the 'Safeguarding Mineral Infrastructure' topic paper) and explains how this policy has evolved and what considerations have been taken into account during its development.

Definitions

Mineral Resources

Mineral Resources (of local and national importance) are defined in the National Planning Policy Framework (NPPF) 2018 as Minerals which are *"necessary to meet society's needs, including aggregates, brickclay (especially Etruria Marl and fireclay), silica sand (including high grade silica sands), cement raw materials, gypsum, salt, fluorspar, shallow and deep-mined coal, oil and gas (including conventional and unconventional hydrocarbons), tungsten, kaolin, ball clay, potash, polyhalite and local minerals of importance to heritage assets and local distinctiveness."*

Mineral sterilisation

Mineral Sterilisation is the process of making mineral resources inaccessible for future extraction and use. Sterilisation can occur either directly by building on top of the deposits, or indirectly, for example, by building new houses close to a mineral deposit and thus preventing extraction due to the proximity of an incompatible land use that prevents the granting of planning permission for extraction. As minerals are finite resources that can only be worked where they are found, it is important to reduce sterilisation.

Mineral Safeguarding Areas (MSA)

As stated in the NPPF 2018, Mineral Safeguarding Areas are *designated by minerals planning authorities and cover known deposits of minerals which are desired to be kept safeguarded from unnecessary sterilisation by non-mineral development.*

Mineral Consultation Areas (MCA)

Mineral Consultation Areas are geographical areas that must be based on Mineral Safeguarding Areas, as stated in the NPPF 2012¹. Planning applications submitted to District/Borough Councils that propose non-mineral development, that fall within the Mineral Consultation Areas, may not be determined until the Minerals Planning Authority has been given the opportunity to comment on whether the proposal could potentially sterilise the mineral resources.

2. Adopted Minerals Local Plan

The adopted Minerals Local Plan (2002-2016) includes a section on Mineral Sterilisation, which contains supporting text and Minerals Policy 5: Mineral Sterilisation to protect potential mineral resources from incompatible non-minerals development and to encourage the extraction of mineral prior to other development taking place.

The policy wording is currently as follows:

MINERALS POLICY 5 – MINERAL STERILISATION

Mineral extraction will be encouraged prior to other development taking place where any significant mineral resource would otherwise be sterilised, or where despoiled land would be improved following restoration.

The County Council will object to any development proposals within, or adjacent to areas of potential mineral resource, which would prevent, or prejudice potential future mineral extraction unless it is clearly demonstrated that:

- i) the land affected does not contain potentially workable mineral deposits; and/or**
- ii) there is an overriding need for the development; and**
- iii) the mineral cannot practically be extracted in advance**

Following the adoption of the existing Minerals Local Plan in March 2007, the Minerals Consultation Areas in Hertfordshire Supplementary Planning Document (MCA SPD) was adopted (November 2007) to assist with the implementation of Minerals Policy 5: Mineral Sterilisation. The MCA SPD contains:

- a definition of Mineral Consultation Areas within the county

¹ The NPPF 2018 no longer requires Mineral Consultation Areas to be identified and therefore does not provide a definition

- excluded developments for Mineral Consultation Areas (applications for which consultation with the county council is not required)
- the safeguarding of railheads and wharves
- categories of development within railhead and wharve MCA' s, for which consultation is not required
- the consultation procedure for which District and Borough Councils must follow where applications are within MCA's and do not fall within the excluded development lists

The review of the Minerals Local Plan aims to develop a single planning document for minerals development and as such the Supplementary Planning Document has also been reviewed as part of the Plan

3. Current National Planning Policy

Since the adoption of the current Minerals Local Plan in 2007, national policy surrounding Mineral Safeguarding has been updated.

The NPPF 2012 set out requirements for the safeguarding of Mineral resources and required that Local Plan policies encourage the prior extraction of minerals (to be applied where appropriate to developments/ when environmentally feasible).²

The NPPF 2012 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.

The NPPF 2018 continues to recognise the importance of Minerals and of safeguarding mineral resources. The NPPF 2018 states:

Planning policies should³:

“safeguard mineral resources by defining Mineral Safeguarding Areas; and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked);”
and

“set out policies to encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place;”

²<https://webarchive.nationalarchives.gov.uk/20180608095821/https://www.gov.uk/government/publications/national-planning-policy-framework--2>

³ Paragraph 204 of the NPPF 2018

The review of the Minerals Local Plan commenced in 2014 with initial evidence gathering stages. During this time, the requirements of the NPPF 2012 were taken into account when shaping the emerging Minerals Local Plan to its Draft Plan stage. The requirements of the NPPF 2018 have been taken into account in the preparation of the emerging document and have been implemented into the Proposed Submission Minerals Local Plan, which was drafted following the release of the revised NPPF.

4. Reviewing other Mineral Planning Authorities Local Plans

It's important to examine other minerals planning authorities Minerals Local Plans. This helps to provide examples of how the national policy requirements for mineral safeguarding have been incorporated into more recently adopted Minerals Local Plans. The table below outlines two example Mineral Safeguarding Policies that the county council looked at when gathering initial evidence for preparing the suggested new Mineral Safeguarding Policy.

Local Plan	Example of Policy
<p>Bedford Borough, Central Bedfordshire and Luton Borough Councils</p> <p>Minerals and Waste Local Plan</p> <p>Adopted January 2014</p>	<p>Mineral Strategic Policy MSP 12 :Surface Development within a Mineral Safeguarding Area</p> <p>Surface development will only be permitted within a Mineral Safeguarding Area where it has been demonstrated that:</p> <ul style="list-style-type: none"> • The mineral concerned is proven to be of no economic value as a result of the undertaking of the Mineral Resource Assessment; or • The development will not inhibit extraction if required in the future; or • There is an overriding need for the development and prior extraction cannot reasonably be undertaken; <p>or</p> <ul style="list-style-type: none"> • The mineral can be extracted prior to the development taking place. <p>Policies MSP11 and MSP12 will not apply to the following classes of surface development as they are unlikely to lead to the long term sterilisation of minerals:</p> <ul style="list-style-type: none"> • Extensions of existing buildings within their curtilage; • Infilling development except for proposals within 250 metres of an existing permission for mineral extraction/waste disposal; • Minor development (such as walls, gates, accesses); • Individual residential caravans for a period of less than 5 years; • Amendments to previously approved developments; • Applications for Listed Building Consent; • Reserved matters; • Changes of Use (except where further built development is

	<p>proposed).</p> <p>Where a development is applied for which is of a form not exempt under this policy and within an area of a designated Mineral Safeguarding Area, then policy MSP11 shall apply.</p>
<p>Hampshire Minerals and Waste Plan</p> <p>Adopted October 2013</p>	<p>Policy 15: Safeguarding - mineral resources</p> <p>Hampshire’s sand and gravel (sharp sand and gravel and soft sand), silica sand and brick-making clay resources are safeguarded against needless sterilisation by non-minerals development, unless ‘prior extraction’ takes place. Safeguarded mineral resources are defined by a Mineral Safeguarding Area illustrated on the Policies Map. Development without the prior extraction of mineral resources in the Mineral Safeguarding Area may be permitted if:</p> <ol style="list-style-type: none"> a. it can be demonstrated that the sterilisation of mineral resources will not occur; or b. it would be inappropriate to extract mineral resources at that location, with regards to the other policies in the Plan; or c. the development would not pose a serious hindrance to mineral development in the vicinity; or d. the merits of the development outweigh the safeguarding of the mineral. <p>The soft sand / potential silica sand resources at Whitehill & Bordon (Inset Map 5), further illustrated on the Policies Map are included within the MSA and are specifically identified for safeguarding under this policy.</p> <p>Policy 16: Safeguarding - minerals infrastructure</p> <p>Infrastructure that supports the supply of minerals in Hampshire is safeguarded against development that would unnecessarily sterilise the infrastructure or prejudice or jeopardise its use by creating incompatible land uses nearby. Minerals sites with temporary permissions for minerals supply activities are safeguarded for the life of the permission. The Hampshire Authorities will object to incompatible development unless it can be demonstrated that:</p> <ol style="list-style-type: none"> a. the merits of the development clearly outweigh the need for safeguarding; or b. the infrastructure is no longer needed; or c. the capacity of the infrastructure can be relocated or provided elsewhere. In such instances, alternative capacity should: <ol style="list-style-type: none"> i. meet the provisions of the Plan, that this alternative capacity is deliverable; and ii. be appropriately and sustainably located; and iii. conform to the relevant environmental and community protection policies in this Plan; or

	d. the proposed development is part of a wider programme of reinvestment in the delivery of enhanced capacity for minerals supply.
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Reviewing Internal and External Plans and Strategies

In addition to reviewing other Minerals Planning Authorities Minerals Local Plans, the county council must also take into account internal and external plans and strategies that may be relevant to the Minerals Local Plan.

The Internal Plan and Strategies included:

- The Hertfordshire County Council (HCC) Corporate Plan 2017-2021
- Hertfordshire's Local Transport Plan (LTP) 2018-2031
- Hertfordshire's Landscape Character Assessments
- Mineral Consultation Areas in Hertfordshire (Supplementary Planning Document January 2008)

The external Plans and Strategies included documents such as;

- Hertfordshire Local Enterprise Partnership (LEP) Strategic Economic Plan (SEP) 2020/21
- The Chilterns Area of Outstanding Natural Beauty (AONB) Management Plan 2014- 2019

5. Initial Consultation Stage

Following the evidence gathering stages of the Minerals Local Plan review, the Initial Consultation Document was prepared and published for an eight week consultation period, from Monday 03 August 2015 to Friday 16 October 2015. The Initial Consultation Document contained a series of Issues that the Minerals Planning Authority was considering moving forward in the review of the Minerals Local Plan.

A list of suggested policies was included within the Initial Consultation Document, one of which was Policy 8: Mineral Safeguarding Areas and Mineral Consultation Areas. This policy heading was included to take into account national policy

requirements for the safeguarding of mineral resources. ⁴ Issues 12 to 15 of the Initial Consultation document related to the topics of mineral safeguarding/mineral sterilisation. Issue 15 asked consultees if the proposed selection procedure for Minerals Safeguarding Areas and Minerals Consultation Areas is appropriate.

Response to the Initial Consultation

The feedback received in response to the Initial Consultation, specifically for Issues 12 to 15, identified that consultees supported the use of the formal consultation process detailed within the existing Mineral Consultation Areas Supplementary Planning Document⁵ and the proposed procedure for identifying MSAs and MCAs received almost unequivocal support.

6. Draft Plan Consultation Stage

Following the Initial Consultation, the next stage in the review of the Minerals Local Plan was to prepare and consult on the 'Draft Minerals Local Plan'.

The Draft Minerals Local Plan was prepared using the feedback received in response to the Initial Consultation and the evidence gathered during the initial stages of the review (i.e the evidence outlined in Parts 2 and 4 of this paper)

The Draft Minerals Local Plan, introduced a new chapter, under the heading of 'Safeguarding' which contained a newly titled policy 'Policy 8: Mineral Safeguarding' and also contained two other new policies which relate to the safeguarding of mineral infrastructure (i.e infrastructure used to support the transport and handing of minerals) rather than mineral resources.

These two policies were Policy 9: Rail heads and Wharves' and 'Policy 10: Concrete Batching, Asphalt and Coated Stone Plants'. Please refer to the 'Safeguarding Mineral Infrastructure' Topic Paper for more information on the these two policies.

The Draft 'Mineral Safeguarding' Policy was proposed as follows:

Policy 8: Mineral Safeguarding

The county council will safeguard known mineral resources from unnecessary sterilisation by non-mineral development by implementing Mineral Safeguarding Areas and Mineral Consultation Areas as indicated on the Policies Map.

Any proposals for non-mineral development which fall within the Mineral Safeguarding Areas and Mineral Consultation Areas, other than applications for the

⁴ To see the Initial Consultation Document, go to: <https://www.hertfordshire.gov.uk/services/recycling-waste-and-environment/planning-in-hertfordshire/minerals-and-waste-planning/minerals-planning/minerals-local-plan-review/initial-consultation-2015.aspx>

⁵ To view the Mineral Consultation Areas Supplementary Planning Document follow this link: <https://www.hertfordshire.gov.uk/services/recycling-waste-and-environment/planning-in-hertfordshire/minerals-and-waste-planning/minerals-planning/minerals-planning.aspx>

'excluded development' will be subject to consultation with the Minerals Planning Authority.

After consultation with the Mineral Planning Authority, the submission of a Mineral Resource Assessment may be required to establish the existence or otherwise of a viable mineral resource. Assessments shall be site specific and include geological survey data undertaken by a suitably qualified professional.

The Mineral Planning Authority will object to proposals for non-mineral development within the Mineral Safeguarding Areas and Mineral Consultation Areas, as shown on the Policies Map, unless it is clearly demonstrated to the Mineral Planning Authority that:

- mineral extraction is not environmentally acceptable; or
- the need for the non-mineral development clearly outweighs the need for the mineral resource and therefore sterilisation of the mineral resources; or
- the proposed development does not constrain potential future extraction i.e. playing fields or open land; or
- the development would not constrain future mineral extraction in the vicinity.

Prior extraction will be sought where practicable unless it is demonstrated that the mineral cannot practically be extracted in advance of the proposed development.

In these circumstances, full consideration should be given to the use of raised sand and gravel material on site in construction projects to reduce the need to import material as opportunistic use.

Supporting Policy Text

To further support Draft 'Policy 8: Mineral Safeguarding', an 'Excluded Development List' was provided in order to avoid unnecessary consultation for applications that fall within Mineral Safeguarding Areas and Minerals Consultation Areas. The list set out what kinds of development are excluded from consultation and can be seen below:

Excluded Development List	
Mineral Type	Excluded Development
Sand and Gravel (same for both MSA and MCA)	<ul style="list-style-type: none">• Householder planning consent: Applications for alterations to existing single buildings including works within the boundary/garden of a house i.e. domestic extensions, conservatories, loft conversions, dormer windows, garages and similar structures (car ports, outbuildings) within the curtilage of an existing dwellinghouse
Brick Clay (same for both MSA and MCA)	<ul style="list-style-type: none">• Applications for Advertisement Consent• Applications for Listed Building Consent• Lawful Development Certificate (LDC) for existing use, proposed use, or operation or activity in breach of a planning condition• Prior Notifications (telecommunications; forestry;

	<p>agriculture; demolition)</p> <ul style="list-style-type: none"> • Applications for removal, variation and approval of conditions • Applications for Tree Works (including consent under Tree Preservation Orders and notification of proposed works to trees in conservation areas) • Applications for change of use of existing development, unless intensifying activity on site • Applications for reserved matters including subsequent applications after outline consent has been granted • Application for non-material amendments • Applications that are in accordance with the development plan where the district/borough local plan took account of the prevention of unnecessary mineral sterilisation and determined that prior extraction should not be considered when an application for development in a MSA come forward (<u>Sand and Gravel, and Brick Clay only</u>) • Applications for small-scale urban infill development within existing built-up areas i.e. the development of a small gap between existing buildings/enclosed by other types of development • Developments within a conservation area within existing urban areas • Applications for prior approval
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The Draft Minerals Local Plan was published for a ten week consultation, from Monday 04 December 2017 to Friday 09 February 2018.

Response to the Draft Plan Consultation

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.

The majority of consultees supported the new consultation procedure for the safeguarding of mineral resources. However, it was stated that the Mineral Safeguarding Areas and/or Mineral Consultation Areas were too widespread and that there was some confusion with how the two areas should be applied. These issues have been addressed in the Proposed Submission Minerals Local Plan and have been considered in the revision of the 'Mineral Safeguarding' policy.

To see a summary of the feedback received in response to the Draft Plan consultation, please follow the link below:

<https://democracy.hertfordshire.gov.uk/ieListDocuments.aspx?CId=218&MId=1154>

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 the feedback received from the consultation on the Draft Mineral Local Plan as well as recent changes to national policy (i.e the revision of the NPPF in July 2018).

Revised National Policy Requirements for Mineral Safeguarding

The national policy requirements for the safeguarding of mineral resources were revised through the new NPPF. The wording of the former NPPF 2012 required that Local Planning Authorities identify Minerals Safeguarding Areas and Mineral Consultation areas. The new requirements of the NPPF 2018 (surrounding safeguarding of mineral resources) are as follows:

Paragraph 204 of the NPPF 2018 states:

Planning policies should:

Safeguard mineral resources by defining Mineral Safeguarding Areas; and adopt appropriate policies so that known locations of specific mineral resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked)

The above changes to national policy have led to the changes to the 'Mineral Safeguarding' policy.

The NPPF 2018 also contained revised wording surrounding the safeguarding of mineral infrastructure. These revisions resulted in the other two policies of the 'Safeguarding' chapter contained within the Draft Mineral Local Plan (i.e Draft Minerals Local Plan Policy 9: Rail heads and Wharves' and Draft Minerals Local Plan 'Policy 10: Concrete Batching, Asphalt and Coated Stone Plants') being combined into one policy within the Proposed Submission Minerals Local Plan.

To find out more information on how and why these two policies have evolved from Draft Plan stage to Proposed Submission Stage, please see the 'Safeguarding Mineral Infrastructure' Topic Paper.

The revised Mineral Safeguarding policy included within the Proposed Submission Minerals Local Plan and its supporting Excluded Development List are as follows:

Policy 8: Mineral Safeguarding

The county council will safeguard known mineral resources of sand and gravel and brick clay from unnecessary sterilisation by non-mineral development by implementing Mineral Safeguarding Areas as indicated on the Policies Map.

Any proposals for non-mineral development which fall within the Mineral Safeguarding Areas, other than applications considered as 'excluded development', will be subject to consultation with the Minerals Planning Authority.

After consultation with the Minerals Planning Authority, the submission of a Mineral Resource Assessment may be required to establish the existence or otherwise of a viable mineral resource. Assessments shall be site specific and include geological survey data undertaken by a suitably qualified professional.

The Minerals Planning Authority will object to proposals for non-mineral development within the Mineral Safeguarding Areas, as shown on the Policies Map, based on the findings of the Mineral Resource Assessment, unless it is clearly demonstrated to the Minerals Planning Authority that:

- mineral extraction is not environmentally acceptable; or
- the need for the non-mineral development clearly outweighs the need for the mineral resource and therefore sterilisation of the mineral resources; or
- the proposed development does not constrain potential future extraction i.e. playing fields or open land; or
- the development would not constrain effective present and future mineral development.

Prior extraction will be sought where practicable unless it is demonstrated that the mineral cannot practically be extracted in advance of the proposed development. In these circumstances, full consideration should be given to the use of raised sand and gravel material on site in construction projects to reduce the need to import material as opportunistic use.

Excluded Development List

Mineral Type	Excluded Development
Sand and Gravel and Brick Clay	<ul style="list-style-type: none">• Householder planning consent: Applications for alterations to existing single buildings including works within the boundary/garden of a house i.e. domestic extensions, conservatories, loft conversions, dormer windows, garages and similar structures (car ports, outbuildings) within the curtilage of an existing dwellinghouse;• Applications for Advertisement Consent;• Applications for Listed Building Consent;• Lawful Development Certificate (LDC) for existing use, proposed use, or operation or activity in breach of a planning condition;• Prior Notifications (telecommunications; forestry; agriculture; demolition);

- Applications for removal, variation and approval of conditions;
- Applications for Tree Works (including consent under Tree Preservation Orders and notification of proposed works to trees in conservation areas);
- Applications for change of use of existing development, unless intensifying activity on site;
- Applications for reserved matters including subsequent applications after outline consent has been granted;
- Application for non-material amendments;
- Applications that are in accordance with the Development Plan where the district/borough Local Plan took account of the prevention of unnecessary mineral sterilisation and determined that prior extraction should not be considered when an application for development in a MSA come forward (Sand and Gravel, and Brick Clay only);
- Applications for small-scale urban infill development within existing built-up areas i.e. the development of a small gap between existing buildings/enclosed by other types of development;
- Developments within a conservation area within existing urban areas; and
- Applications for prior approval.

The Proposed Submission Minerals Local Plan will be published for a ten week consultation period from Monday 14 January 2019 to Friday 22 March 2019. This Topic Paper (along with a host of other Topic Papers) will be published at the same time as the Proposed Submission document, to support the document and provide explanations of how the different topics covered within the emerging Minerals Local Plan have evolved throughout its review.

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