

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

Non-Conventional Extraction Policies

Version 2 - November 2018

1. Introduction

The purpose of this topic paper is to provide information on the new 'Non-Conventional Aggregate Extraction' chapter of the emerging Minerals Local Plan (MLP), the reasons for its inclusion within the emerging document and the considerations that have been taken into account during its development.

This topic paper includes an outline of non-conventional extraction, national policy requirements surrounding non-conventional aggregate extraction and an explanation of how the non-conventional aggregate extraction policies have evolved throughout the Minerals Local Plan review, in response to each of consultation stage.

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 and mineral extraction sometimes takes place outside of quarries.

Borrow Pits

Mineral can be extracted from Borrow Pits, which are temporary mineral extraction sites. Borrow Pits are usually worked in close proximity to large scale non-mineral developments (i.e large construction projects, usually roads); with the intention of the worked minerals being used exclusively for the specific developments they are being worked in close proximity to.

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. The Borrow Pits would then be restored using any surplus soils that arise as a result of the close by developments.

Incidental Extraction

Mineral extraction may also take place as a secondary activity to non-mineral development, which enables the non-mineral development to take place. The mineral is therefore a by-product of the non-mineral development. This is called Incidental Extraction.

An example of where Incidental extraction takes place is in the creation of agricultural reservoirs. Agricultural reservoirs improve water supply for agricultural purposes and are created through re-shaping the landscape and therefore could involve mineral extraction.

Unlike Borrow Pits, the void created by the Incidental extraction of the minerals is not restored as it is necessary to enable the development. This can result in significant quantities of mineral requiring transportation off site for use elsewhere. This could have significant environmental impacts.

Both Borrow Pits and Incidental Extraction require attention in the emerging Minerals Local Plan, to make sure proposals for either type of extraction are planned to a sufficient quality and are subject to appropriate planning controls and monitoring regimes, if granted permission.

3. Adopted Minerals Local Plan

The adopted Minerals Local Plan (2007) does not contain policies related to extraction at Borrow Pits or Incidental Extraction. The Minerals Local Plan was prepared in the early 2000's when the NPPF did not exist and instead Planning Guidance and Policy Statements were used in its preparation (in particular, this included 'Minerals Planning Guidance 6: Guidelines for Aggregate Provision in England'¹ and 'Planning Policy Statement 12: Local Spatial Planning'²).

Applications which proposed mineral extraction (which would fall into the categories of Borrow Pits and Incidental Extraction) would be (and still are determined against this policy until the revised Minerals Local Plan is adopted, which is anticipated for the summer of 2020) determined under Minerals Policy 4: Applications Outside Preferred Areas. This policy is used to determine any applications for mineral extraction which fall outside of the three identified Preferred Areas of the Minerals Local Plan 2007.

Minerals Policy 4 is outlined below:

Minerals Policy 4: Applications Outside Preferred Areas

Applications to develop land for aggregate extraction outside of the Preferred Areas will be refused planning permission unless:

- 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
- ii) it can be demonstrated that the proposals would not prejudice the timely

¹ http://adlib.eversite.co.uk/resources/000/060/655/Minerals_Planning_Guidance_Note_6.pdf

² <https://webarchive.nationalarchives.gov.uk/20120919201901/http://www.communities.gov.uk/archived/publications/planningandbuilding/pps12lsp>

working of Preferred areas; or
iii) the sterilisation of resources will otherwise occur.

4. Current National Planning Policy

Since the adoption of the Minerals Local Plan 2007, national policy surrounding the extraction and planning of minerals has been updated.

The National Planning Policy Framework (NPPF), which was first introduced in 2012, set out requirements for facilitating the sustainable use of minerals. In terms of planning for the extraction of minerals, the NPPF 2012 required that:

In preparing Local Plans, local planning authorities should:

“identify and include policies for extraction of mineral resource of local and national importance in their area, but should not identify new sites or extensions to existing sites for peat extraction”³

Minerals planning authorities should plan for a steady and adequate supply of aggregates by:

“making provision for the land-won and other elements of their Local Aggregate Assessment in their mineral plans taking account of the advice of the Aggregate Working Parties and the National Aggregate Coordinating Group as appropriate. Such provision should take the form of specific sites, preferred areas and/or areas of search and locational criteria as appropriate;”⁴

Taking into account the above requirements, it was acknowledged that planning applications for mineral extraction can be submitted, which propose the extraction of minerals, in areas which fall outside of identified specific sites, preferred areas and/or areas of search⁵, such as those for Borrow Pits or in cases where Incidental Extraction is required. In order to ensure that these types of mineral-developments are captured and can be sufficiently dealt with by the appropriate planning authority, it was decided that new, separate policies, must be incorporated into the new Minerals Local Plan.

Revision of the NPPF

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

³ Paragraph 143 of the NPPF 2012

⁴ Paragraph 145 of the NPPF 2012

⁵ See the Minerals Site Selection Topic Paper to find out more information about how sites have been identified for inclusion within the emerging Minerals Local Plan

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 providing opportunities for mineral extraction. The NPPF 2018 states:

Planning policies should⁶:

“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;”

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.

5. 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 have been incorporated into more recently adopted Minerals Local Plans. The table below outlines three examples of policies that the county council looked at when gathering initial evidence for preparing the suggested new policies to deal with applications for Borrow Pits and Incidental Extraction.

Local Plan	Non-Conventional Extraction Policies
Essex Minerals Local (adopted 2014)	<p>Policy S6 - Provision for sand and gravel extraction 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.</p> <p>The working of Reserve sites will only be supported if the</p>

⁶ Paragraph 204 of the NPPF 2018

	<p>landbank with respect to the overall requirement of 4.31mtpa is below 7 years.</p> <p>Mineral extraction outside Preferred or Reserve Sites will be resisted by the Mineral Planning Authority unless the applicant can demonstrate:</p> <p>a. An overriding justification and/ or overriding benefit for the proposed extraction, and, b. The scale of the extraction is no more than the minimum essential for the purpose of the proposal, and, c. The proposal is environmentally suitable, sustainable, and consistent with the relevant policies set out in the Development Plan.</p>
<p>Bedford Borough, Central Bedfordshire and Luton Borough Councils Minerals and Waste Local Plan: Strategic Sites and Policies (Adopted Jan 2014)</p>	<p>Mineral Strategic Policy MSP 9 Borrow Pits Borrow Pits will be permitted where they meet the following criteria:</p> <ul style="list-style-type: none"> • The site is required to supply minerals to specific major construction works; • The site is well related geographically to the project it is intended to supply; • The borrow pit will serve the related project only, 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’.
<p>Cambridgeshire and Peterborough Minerals and Waste Core Strategy (Adopted July 2011)</p>	<p>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:</p> <p>a. there is a proven need for the proposal</p>

	<p>b. that any mineral extracted will be used in a sustainable manner</p> <p>c. where the proposal relates to a reservoir, the design minimises its surface area by maximising its depth</p> <p>d. the minimum amount of mineral is to be extracted consistent with the purpose of the development</p> <p>e. the phasing and duration of development proposed adequately reflects the importance of the early delivery of water resources or other approved development</p> <p>The determination of planning applications will have regard to the objectives of the mineral and waste spatial strategies in this Plan.</p>
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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

6. 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. Suggested Policies 14: Borrow Pits and 15: Water Reservoirs were included within this list.

Issues 21 to 23 of the Initial Consultation document related to the proposed policy headings and asked consultees for opinion whether or not the suggested list covers all appropriate topics and meets the proposed objectives of the emerging Minerals Local Plan (which were also stated within the Initial Consultation Document).

Response to the Initial Consultation

The feedback received in response to the Initial Consultation, specifically for the Policy related Issues (Issues 21-23), identified that there was overall support for the suggested list of policy headings. It was clear that amendments were required in order to make it clear what the content of the policies would be and what the difference is between Strategic and Development Management Policies.

7. 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 3 and 5 of this paper).

The Draft Minerals Local Plan introduced a new chapter, under the heading of 'Non-Conventional Aggregate Extraction'. This Chapter contained two policies which included Draft Policy 11: Borrow Pits and Draft Policy 12: Incidental Extraction.

In shaping the emerging Minerals Local Plan from Initial Consultation stage to Draft Plan Consultation stage, it was clear that the title of suggested Policy 15: Water Reservoirs required revising. Suggested Policy 15 became Draft Policy 12: Incidental Extraction. By changing the policy to cover 'Incidental Extraction' the policy is not limited to deal with applications for the creation of water reservoirs only and is able to be used in the determination of a wider range of applications which may require incidental extraction (in addition to those which result in the creation of water reservoirs).

The Draft 'Non-Conventional Aggregate Extraction' policies were proposed as follows:

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.

8. 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).

The revisions to national policy and the feedback received from the consultation on the Draft Minerals Local Plan, resulted in some minor changes to Draft 'Policy 10: Borrow Pits'. The policy was updated from Draft Plan stage to Proposed Submission stage to increase its flexibility regarding sustainable restoration. The Non-Conventional Aggregate Extraction Chapter of the Proposed Submission Minerals Local Plan remains much the same as it was at Draft Plan stage.

The Non-Conventional Aggregate Extraction policies included within the Proposed Submission Minerals Local Plan are as follows:

Policy 10: Borrow Pits

Proposals for 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;**
- **the proposals are consistent with other policies within this Plan.**

Restoration of borrow pits should be achieved without the need for imported material other than that generated from the associated construction project. If importation of additional material is proposed, it must be demonstrated that the use of additional material is the most sustainable option.

Policy 11: 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 highway 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.

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.

9. 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