

Policy Evidence Report

Policy 13: Restoration Aftercare and After-use

**Hertfordshire Minerals and Waste
Local Plan 2040**

Hertfordshire County Council



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1. Introduction

1.1. Hertfordshire County Council is reviewing its adopted Minerals Local Plan, Waste Local Plan and supporting documents. These comprise the following documents (with adoption date):

- Minerals Local Plan Review (March 2007)
- Minerals Consultation Areas SPD (November 2007)
- Waste Core Strategy and Development Management Policies DPD (November 2012)
- Waste Site Allocations DPD (July 2014)
- Employment Land Areas of Search SPD (November 2015)

1.2. The documents listed above are to be replaced by a single Minerals and Waste Local Plan (MWLP) covering the period to 2040. The new MWLP sets the overall spatial framework and development management policies for sustainable minerals and waste management development in Hertfordshire.

1.3. This Policy Evidence Report provides a context and justification for the creation of Policy 13: Restoration Aftercare and After-use in the emerging Minerals and Waste Local Plan. It also contains a reasoning for the changes made to the policy between the Draft Plan publication and the Proposed Submission Plan publication.

2. National Policy Context

2.1. The National Planning Policy Framework (NPPF 2023) and National Planning Practice Guidance (PPG) provide the basis of national planning policy.

2.2. The following points within the NPPF relate to Policy 13:

- Paragraph 216 states that '*Planning policies should: ... h) ensure that worked land is reclaimed at the earliest opportunity, taking account of aviation safety, and that high quality restoration and aftercare of mineral sites takes place.*'
- Paragraph 217 states: '*In considering proposals for mineral extraction, minerals planning authorities should: ... e) provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions.*'

2.3. The PPG includes a section on Restoration and Aftercare:

- '*The most appropriate form of site restoration to facilitate different potential after uses should be addressed in both local minerals plans, which should include policies to ensure worked land is reclaimed at the earliest opportunity and that high quality restoration and aftercare of mineral sites takes place, and on a site-by-site*

basis following discussions between the minerals operator and the mineral planning authority.'

Paragraph: 037 Reference ID: 27-037-20140306

- *'The level of detail required on restoration and aftercare will depend on the circumstances of each specific site including the expected duration of operations on the site. It must be sufficient to clearly demonstrate that the overall objectives of the scheme are practically achievable, and it would normally include:*
 - *an overall restoration strategy, identifying the proposed afteruse of the site;*
 - *information about soil resources and hydrology, and how the topsoil/subsoil/overburden/soil making materials are to be handled whilst extraction is taking place;*
 - *where the land is agricultural land, an assessment of the agricultural land classification grade; and*
 - *landscape strategy.*

Where working is proposed on the best and most versatile agricultural land the outline strategy should show, where practicable, how the methods used in the restoration and aftercare enable the land to retain its longer term capability, though the proposed after-use need not always be for agriculture.

Restoration may, in some cases, need to be undertaken in phases so as to minimise local disturbance and impacts.'

Paragraph: 040 Reference ID: 27-040-20140306

- *'Mineral planning authorities should secure the restoration and aftercare of a site through imposition of suitable planning conditions and, where necessary, through planning obligations.'*

Paragraph: 041 Reference ID: 27-041-20140306

- *'There are many possible uses of land once minerals extraction is complete and restoration and aftercare of land is complete. These include:*
 - *creation of new habitats and biodiversity;*
 - *use for agriculture;*
 - *forestry;*
 - *recreational activities;*
 - *waste management, including waste storage; and*
 - *the built environment, such as residential, industrial and retail where appropriate.**Some former mineral sites may also be restored as a landfill facility using suitable imported waste materials as an intermediate stage in restoration prior to an appropriate after use.'*

Paragraph: 045 Reference ID: 27-045-20140306

- *'Aftercare conditions are required to ensure that, following site restoration, the land is brought up to the required standard which enables it to be used for the intended afteruse.'*

Paragraph: 050 Reference ID: 27-050-20140306

3. Local Context

- 3.1. The county council will make use of planning obligations and conditions, where appropriate, to secure the restoration and aftercare of sites. Planning conditions must be drafted in such a way that, even if the interest of the applicant applying for permission is subsequently disposed of, the requirements for restoration and aftercare can still be fulfilled, whether by a new operator or in the case of default, by the land-owner. The county council will monitor and, if necessary, use enforcement powers to ensure that restoration and aftercare are implemented in line with approved schemes.
- 3.2. In addition to this, it is common practice to work extraction sites in phases (where appropriate) and to restore each phase in turn shortly after extraction has been completed. Progressive working and restoration can lessen the overall impact of mineral working on the environment and minimise the loss of land in agricultural production. The phasing and direction of working can be particularly relevant to minimising the impact on residential and local amenity.
- 3.3. Sites should be restored to a high quality incorporating the highest environmental standards. It is expected that following mineral extraction, sites are either returned to meet the original standard, enhance the land where appropriate or provide an alternative use that benefits the community as a whole. In all cases, restoration will involve the removal of temporary buildings, plant and equipment previously associated with the mineral extraction.

4. Minerals & Waste Local Plan Policy

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

Minerals and Waste Local Plan Draft Plan 2022

- 4.2. The Regulation 18 Draft Plan document included Policy 13: Restoration Aftercare and After-use. The policy read as follows:

Policy 13: Restoration, Aftercare and After-use

Proposals for mineral extraction and associated development, and waste development proposals where temporary in nature, must be restoration-led and where possible, should improve and enhance the area.

Proposals will be required to submit, as a minimum, a suitable outline scheme of restoration for the site at the application stage. Such proposals will be supported where it can be clearly demonstrated within the restoration strategy that:

- a) the restoration will take place at the earliest opportunity and to a high environmental standard;
- b) a phased approach is taken, where appropriate;
- c) all plant and machinery will be removed in a timely manner; and
- d) where land is returned to agricultural use, it must be returned to at least the equivalent grade prior to extraction.

Proposals involving inert material in the restoration of a site will be supported where it can be demonstrated that:

- e) the use of inert material does not have unacceptable adverse impacts upon the environment, local amenity and transport movements;
- f) the restoration with inert material is to the highest possible environmental standard;
- g) the use of inert material is necessary as part of the restoration of the site; and
- h) the amount of material is appropriate and can be sourced to undertake the restoration in a timely manner.

All aftercare and after-use proposals will be supported where they have demonstrated consideration of and, where appropriate, inclusion of measures to:

- i) respect and enhance the local character of the area;
- j) be compatible with the landscape character of the area
- k) not result in any unacceptable harm to local landscape character, quality or the setting of heritage assets;
- l) support the local economy;
- m) provide improved and increased public access to the countryside and create public open space for recreation;
- n) deliver biodiversity gain and support and enhance existing places of nature conservation for habitats and species;
- o) maximise opportunities for sites of geological interest; and
- p) integrate sustainable forms of transport such as walking and cycling with public transport.

All proposals involving aftercare will be required to submit an Aftercare Management Strategy for the site in accordance with the proposed after-use.

4.3. During the Regulation 18 consultation, 10 representations were made in relation to this policy. The main issues of these are summarised below:

- a) It is recommended that the policy states that proposals need to be appropriate to the local character of the surrounding area and to consider opportunities to enhance recreational use.
- b) It is considered that a reference should be added for enhancements to biodiversity as part of a wider nature recovery network extending beyond the site boundary.
- c) Policy 13 should be amended to include a specific reference to the use of enforcement powers to ensure that restoration and aftercare are implemented.
- d) It is considered that proposals should be required to demonstrate that they have taken account of local and regional Biodiversity Strategies when setting out measures to support and enhance nature conservation for species and habitats.
- e) An amendment is requested to criterion b: '*a phased approach is taken ~~where appropriate~~ wherever possible;*'
- f) It is suggested that criterion c) should refer to equipment and also needs to allow for infrastructure being retained as part of restoration proposals.
- g) It is considered that criterion k) should include reference to nearby designated heritage assets.
- h) Criterion l) is seen as unnecessary as restoration proposals are usually not structured to provide support to the local economy.
- i) It is suggested that an extra criterion be included to reference surface water management and flood risk to ensure consistency with National Policy.
- j) The following amendment is suggested: '*n) deliver biodiversity **net gain of at least 10%** and support and enhance existing places of nature conservation for habitats and species **of Principle Importance;***'
- k) Another criterion should be added to state: '**maximise opportunities for wetlands and river restoration and delivering Water Framework Directive**'
- l) It is suggested that the policy includes reference to the minerals industry's potential opportunities for pond creation designed for maximum biodiversity on minerals sites.
- m) These sites present an opportunity to ensure significant long-term gains in biodiversity and contribute towards nature recovery in Hertfordshire. Restoration should take into consideration the Lawton Principles of "bigger, better and more joined-up" for habitat creation and seek to take a strategic approach – looking at how the sites in question can connect with the wider nature recovery network, the emerging Local Nature Recovery Strategy for Hertfordshire and existing Green Infrastructure provision. Measures should be in place to ensure the appropriate long-term monitoring and management of these sites.

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

- a) The policy already covers this.

- b) This is now a legal requirement under the Environment Act 2021, therefore no change required.
- c) Conditions attached to planning approval will be enforced as appropriate. It is not necessary to reference the Council's enforcement powers within the policy.
- d) The Plan should be read as a whole. Policy 15: Biodiversity and Geodiversity covers this.
- e) Even if possible, it may not be appropriate to take a phased approach, therefore no change required to the policy.
- f) Extractive equipment is generally referred to as plant and machinery and should be removed in a timely manner. It is accepted however that some infrastructure (even equipment) could be retained as part of a restoration scheme.
- g) The criterion simply covers the impact on heritage assets, regardless of the asset's location, therefore no change required.
- h) Restoration proposals can support the local economy, therefore consideration of this is appropriate.
- i) This is specifically covered under Policy 21: Water Management.
- j) This is now a legal requirement under the Environment Act 2021, therefore no change required.
- k) Policy 15: Biodiversity and Geodiversity covers contribution to ecological and blue/green infrastructure.
- l) Measures to increase biodiversity will vary and may include the creation of water bodies, having regard to other policies, such as Policy 27: Aerodrome Safeguarding Areas.
- m) Policy 15: Biodiversity and Geodiversity covers this.

5. Alternative Reasonable Options

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

- Option 1 – A policy which promotes restoration in a timely manner, using sustainable materials and which provides criteria for proposed after-use (preferred)
- Option 2 – A less restrictive policy with minimal after-use requirements

6. Conclusion

6.1. This Policy Evidence Report demonstrates the justification for the inclusion of this policy in the emerging Minerals and Waste Local Plan Proposed Submission Plan. It summarises the national policy context and local context, along with the main issues raised through previous consultation and how the council has addressed those issues.

- 6.2. Any representations received on this policy at the Regulation 19 consultation stage will be submitted alongside the Local Plan to the Secretary of State as part of the examination process.
- 6.3. This Policy Evidence Report was written to support the Proposed Submission Plan (Regulation 19) consultation. This report forms part of the Regulation 22 statement, as set out by the Town and Country Planning (Local Planning) (England) Regulations 2012.