

Policy Evidence Report

Policy 4: Site Safeguarding Consultation Areas

**Hertfordshire Minerals and Waste
Local Plan 2040**

Hertfordshire County Council



Supporting Regulation 22(c)(iii)(iv)

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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 will set 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 4: Site Safeguarding and Consultation Areas in the emerging Minerals and Waste Local Plan.

2. National Policy Context

- 2.1. The National Planning Policy Framework (NPPF 2021) and National Planning Practice Guidance (PPG) provide the basis of national planning policy.
- 2.2. The following points within the NPPF relate to Policy 4:
 - Paragraph 187 states: 'Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.'
 - Paragraph 210 states that 'planning policies should ... safeguard existing, planned and potential sites for: the bulk transport, handling and processing of minerals; the manufacture of concrete and concrete products; and the handling, processing and distribution of substitute, recycled and secondary aggregate material ...'.

2.3. The PPG section on minerals states:

- ‘Planning authorities should safeguard existing, planned and potential storage, handling and transport sites to:
 - ensure that sites for these purposes are available should they be needed; and
 - prevent sensitive or inappropriate development that would conflict with the use of sites identified for these purposes.

In areas where there are county and district authorities, responsibility for safeguarding facilities and sites for the storage, handling and transport of minerals in local plans will rest largely with the district planning authority. Exceptions will be where such facilities and sites are located at quarries or aggregate wharves or rail terminals.

Planning authorities should consider the possibility of combining safeguarded sites for storage, handling and transport of minerals with those for processing and distribution of recycled and secondary aggregate. This will require close co-operation between planning authorities.’

Paragraph: 006 Reference ID: 27-006-20140306

2.4. The National Planning Policy for Waste (NPPW) includes the following point:

- Paragraph 3 – ‘Waste planning authorities should prepare Local Plans which identify sufficient opportunities to meet the identified needs of their area for the management of waste streams. In preparing Local Plans, waste planning authorities should: ... work collaboratively in groups with other waste planning authorities, and in two-tier areas with district authorities, through the statutory duty to cooperate, to provide a suitable network of facilities to deliver sustainable waste management; consider the extent to which the capacity of existing operational facilities would satisfy any identified need.’

2.5. The Waste (England and Wales) Regulations 2011 states:

- Schedule 1, part 1 (4) –
 - ‘(1) To establish an integrated and adequate network of waste disposal installations and of installations for the recovery of mixed municipal waste collected from private households, including, where such collection also covers such waste from other producers, taking into account best available techniques ...
 - (3) The network must enable waste to be disposed of and mixed municipal waste collected from private households to be recovered in one of the nearest appropriate installations, by means of the most appropriate technologies, in order to ensure a high level of protection for the environment and human health ...’

3. Local Context

3.1. Existing mineral and waste infrastructure across the country is coming under threat from new sensitive developments being implemented close to operations which

commonly create noise, dust and visual impacts, which are considered unsuitable as neighbouring land-uses for the new development.

- 3.2. When moving minerals over long distances, rail heads and wharves can serve as important strategic mineral infrastructure for the supply of minerals in Hertfordshire. The county does not have any coastline and as a result does not have the potential for marine wharves, however there is the potential for wharves on the rivers within the county such as the River Lea, where boats can dock and unload minerals.
- 3.3. Rail heads are used for the import and export of sand and gravel and they are essential infrastructure within Hertfordshire for importing hard rock as the county does not contain deposits of hard rock. They form part of a strategic network of transportation of sub-national and national importance for the movement of minerals as well as construction, demolition and excavation wastes.
- 3.4. This transportation is particularly important when insufficient land exists close to the waste's origin for suitable waste management facilities as is frequently the case in London. Facilities for bulk transport are hard to re-locate due to the increasing demands for land and the associated impacts with their operation, adding to the importance of their safeguarding.
- 3.5. There are also many different types of waste management facilities across Hertfordshire. Maintaining and increasing (where necessary) the capacity of this network of waste management facilities, is one of the key objectives for the council over the period of the Minerals and Waste Local Plan. A robust and diverse network of waste management facilities will help the county to work towards achieving net self-sufficiency, meet its capacity gap shortfalls and reduce the need for the transportation of waste outside of the county.
- 3.6. By implementing consultation areas, the council will have the opportunity to consider whether proposed developments would lead to unacceptable impacts on the mineral and waste infrastructure. This process allows for the county council and district/borough councils to work together to protect the infrastructure within the identifies consultation areas. The council encourages early engagement and involvement in the preparation of district/borough Local Plans in addition to engagement at the pre-application stage to ensure that potential issues can be addressed at the earliest stage possible.
- 3.7. Protection can incorporate the use of appropriate buffer areas within the proposal so that sensitive development does not encroach too close to the existing mineral infrastructure operations. It can also incorporate appropriate design so that nearby proposals take account of the potential impacts from the existing facility. This could include including increased mitigation measures, such as reduced windows or increased noise bunding, on the side of a development facing the existing

infrastructure. It could also include designing separate access arrangements to keep proposed HGV movements away from other highway users.

4. Minerals & Waste Local Plan Policy

4.1. Prior to the publication of the emerging MWLP, the Council was preparing separate Minerals and Waste Plans, which were at differing stages of production. The emerging Minerals Local Plan (MLP) was published for a Regulation 19 Proposed Submission consultation in 2019, and the emerging Waste Local Plan (WLP) was published for a Regulation 18 Draft Plan consultation in 2021. These emerging Plans have now been brought together into a single MWLP. The Policy which this Evidence Report relates to has been formulated from one or more relevant policies in those previous emerging Plans, and takes into account the representations received at those previous stages of consultation.

Proposed Submission Minerals Local Plan 2019

4.2. The Proposed Submission Minerals Local Plan was published for a ten week Regulation 19 consultation from 14 January 2019 to 22 March 2019. This document included Policy 9: Safeguarding Bulk Transport and Bulk Handling and Processing Sites. The policy read as follows:

Policy 9: Safeguarding Bulk Transport and Bulk Handling and Processing Sites

Existing, planned and potential bulk transport, bulk handling and processing, and quarry site processing facilities will be safeguarded for the importation, exportation, storage, handling and processing of minerals (including secondary/recycled aggregates and Construction, Demolition and Excavation waste).

The following bulk transport sites will be safeguarded through Mineral Infrastructure Consultation Areas:

- Harper Lane, St Albans;
- Langley Sidings, Stevenage;
- Orphanage Road, Watford;
- Rye House, Hoddesdon; and
- Walsworth Road, Hitchin.

The following bulk handling and processing sites will be safeguarded through Mineral Infrastructure Consultation Areas:

- Birchall Lane/Cole Green, Welwyn Garden City;
- Burnside, Hatfield;
- Eleanor Cross Road, Waltham Cross;

- Harper Lane, St Albans;
- Orphanage Road, Watford;
- Skinners, Hertford; and
- Tyttenhanger, Colney Heath.

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

Proposals which would conflict with the effective operation of bulk transport, handling and processing facilities will be opposed unless:

- the existing or disused facility can be satisfactorily relocated within the development proposals in terms of operational requirements and environmental criteria; or
- the facility is replaced in an appropriate alternative location.

Where bulk handling and processing facilities are situated within a host quarry or bulk transport facility, they are safeguarded until the host quarry has been fully restored or for the life of the bulk transport facility.

Mineral Infrastructure Consultation Areas are shown on the Policies Map and Inset Maps in Appendices 2 and 3.

4.3. During the Regulation 19 consultation, this policy received 12 representations. The points raised are summarised below:

- a) An additional exception criterion should be added to Policy 9 to state *'the alternate proposal would provide demonstrable, overriding benefits against other planning objectives'*.
- b) To be compliant with national policy, the agent of change principle should be referenced. The following additional wording is suggested:
 - i. *'Where development is proposed within an identified buffer zone the 'Agent of Change Principle' will be applied in that the responsibility, and cost for mitigating impacts from existing noise-generating activities or uses will be placed on the proposed new noise- sensitive development and any such measures will not add to the costs and administrative burdens on existing noise generating uses.'*
- c) The policy should reference guidance issued by BGS to ensure that proximal development is suitably considered, and as such minerals sites are better protected from incursion by incompatible land uses.
- d) The policy would benefit from cross reference to Policies Map and supporting documents. Direct reference to Paragraph 187 of the NPPF should be included in the Policy.

- e) The policy should cover all added value activities set out under Paragraph 210e of the NPPF.
- f) It is considered that the mineral extraction sites themselves should be considered to be within the scope of this policy. The current policy scope extends to 'quarry site processing facilities' but not the quarry itself. This suggests that should processing facilities be removed, the quarry itself would no longer benefit from protection under the MICA designation.
- g) The policy should be expanded to include the fact that rail heads and wharves can also play a strategic role in the transportation of C,D and E wastes for reprocessing and recycling. In addition, they could provide transfer of bulk excavated materials to support infill and restoration.
- h) The policy should state that no residential, educational or other public development will be permitted within 300m of a Bulk Transport or Bulk Handling or Processing site, or a greater distance as required if there is noise, vibration, dust or other potential nuisance from the site.
- i) The policy should require the expert assessment of noise, vibration, dust and other potential nuisances for a site.
- j) The Policy and should be amended to reflect the agreed approach to development at Birchall Garden Suburb as identified in both the Welwyn Hatfield and East Herts Local Plans.
- k) It is stated that these types of facilities can be operated in many locations and to safeguard all such sites from what could be preferred alternative land uses is an unreasonable application of local planning powers.

4.4. The county council's response to the above representations is as follows:

- a) The revised Policy 4: Site Safeguarding and Consultation Areas now reflects this criterion
- b) The agent of change principle has been explicitly added to the new Policy
- c) The policy itself doesn't make reference to BGS guidance, but now clearly defines consultation buffer zones around mineral infrastructure
- d) The policy now establishes safeguarding areas and consultation areas for mineral and waste sites and infrastructure and refers to their designation on the Policies Map. The policy also refers to the agent of change principle.
- e) The policy safeguards existing and allocated mineral sites against non-mineral development. This includes the range of activities covered in the NPPF. These are now explicitly mentioned in the policy.
- f) All existing and allocated mineral extraction sites are now safeguarded under the policy.
- g) All current and future transport infrastructure is now safeguarded under the policy.
- h) The policy does not prohibit non-mineral development in the vicinity of mineral development, but it does include a 250m consultation buffer whereby the Mineral Planning Authority must be consulted. The policy also states that where

development is deemed acceptable, subject to mitigation, the agent of change principle will apply.

- i) This is covered under Policy 19: Protection and Enhancement of Amenity.
- j) The policy doesn't reference specific developments.
- k) The policy safeguards concrete batching, asphalt and coated stone plants with permanent permission. These sites are not easy to replace due to environmental considerations and their need to be located near to the Primary Route Network. The policy allows for alternative uses to be developed on these sites, subject to certain criteria being met.

Draft Waste Local Plan 2021

4.5. The Draft Waste Local Plan was published for a ten week Regulation 18 consultation from 11 January 2021 to 19 March 2021. This document included Strategic Policy 2: Safeguarding Waste Management Facilities. The policy read as follows:

Strategic Policy 2: Safeguarding Waste Management Facilities

In order to ensure the continued delivery of a network of waste management facilities, the County Council will safeguard existing (with the benefit of planning permission), planned and proposed waste management facilities.

The Waste Planning Authority will oppose development which is likely to prevent or prejudice the use of land identified or safeguarded for waste management uses unless:

- an appropriate alternative or enhanced provision is made for a facility dealing with the equivalent waste capacity;
- or where it can be demonstrated that the need for the facility is no longer justified.

The list of waste management facilities safeguarded by the county council is updated annually through Hertfordshire's Authority's Monitoring Report.

The HWRC's and Strategic Sites are considered critical for the management of the county's Local Authority Collected Waste and Construction, Demolition and Excavation waste. Waste Consultation Areas of 250m are identified for these sites as shown in appendix 3. All District and Borough Council's must consult the Waste Planning Authority on applications which fall within these areas. This does not include those applications which fall within the remits of the Excluded Development List.

All District and Borough Council's must apply the NPPF's 'agent of change' principle when considering proposals for non-waste related developments which fall within the vicinity of any safeguarded waste management facility.

- 4.6. During the consultation on the Draft Waste Local Plan, this policy received 14 representations. Generally, they were in support of the inclusion of this policy. The points raised are summarised below:
- a) Although the approach is broadly supported, there may be instances in the plan period where the use on operational waste sites lapses. The policy should ensure that the marketing evidence required is set out clearly in the document, to ensure that lapsed waste sites do not lie dormant and that the policy does not prohibit the most effective use of land being pursued.
 - b) Given the identified capacity gaps in Hertfordshire, and the issues raised below, it may be more appropriate to not identify strategic sites. The difference between a strategic and non-strategic waste site is a 250m Waste Consultation Area whereas, all existing and allocated waste facilities will be safeguarded. It is recommended that the same safeguarding provisions are applied to all waste facilities and then consider applications that trigger safeguarding measures on a case-by-case basis, assessing potential harm, mitigation measures and the consequence of potentially losing that facility. Without adopting WCAs that districts can incorporate on their own digital mapping software, the mechanism through which HCC will be alerted to potential safeguarding issues in relation to those facilities currently considered to be non-strategic is questioned.
 - c) The excluded development list should be removed as it is likely to change in the future and this would be difficult to do within an adopted plan.
 - d) It is considered necessary to specify how an application should demonstrate how waste safeguarding measures have been taken into account.
 - e) The policy should consider whether there being a demonstrable overriding public benefit is another reason as to why HCC would be unlikely to oppose development which would prevent or prejudice the use of land identified or safeguarded for waste management uses.
 - f) The policy should refer explicitly to paragraph 182 of NPPF2, February 2019 in order to make it clear that the agent of change principle sits within national policy.
 - g) The word 'vicinity' is too broad to refer just to the proposed 250m radius of a Waste Consultation Area (WCA). The following wording is suggested:
 - i. '*... within the vicinity or extent of impacts of ...*' so as to include traffic congestion, nuisances and other risks.
 - h) More detail could be included to explain how proposed non-waste development could be demonstrated to prejudice use of safeguarded land for waste management, particularly where the non-waste proposal is on adjacent/nearby land rather than on the safeguarded land.
 - i) The policy should be written to ensure that it can't be used to object to the planned closure of any of the HWRCs. The policy should ensure flexibility to be able to amend consultation areas at a date after adoption.
 - j) It is considered that the policy should include specific reference to safeguarding existing water recycling centres (formerly sewage treatment works). These should have a different consultation area distance than the strategic sites.

- k) It is proposed that the policy is amended as follows to emphasis the agent of change principle:
- i. *'The HWRC's and Strategic Sites are considered critical for the management of the county's Local Authority Collected Waste and Construction, Demolition and Excavation waste. Waste Consultation Areas of 250m are identified for these sites as shown in appendix 3. Sewage Treatment Works are considered essential infrastructure which is required to meet the needs for residents and businesses in the county and growth outlined in the wider development plans.*
 - ii. *Consultation Areas are identified for these sites as shown in appendix x. All District and Borough Council's must consult the Waste Planning Authority on applications which fall within these areas. This does not include those applications which fall within the remits of the Excluded Development List.*
 - iii. *All District and Borough Council's must apply the NPPF's 'agent of change' principle when considering proposals for non-waste related developments which fall within the vicinity of any safeguarded waste management facility. As such proposals should demonstrate that any amenity impacts from existing waste developments can be avoided or mitigated as part of the proposed development.'*
- l) It is expected to see within the policy a closer alignment with the list of acceptable sites as defined in Strategic Policy 1 to ensure that the full scope of existing planned and potential opportunities are clearly covered in this safeguarding policy.
- m) The policy refers to safeguarding existing sites but qualifies this by adding "with the benefit of planning permission". This excludes existing sites operating under lawful development certificates and the text should therefore be expanded to ensure such sites are not excluded from being safeguarded.
- n) The policy and consultation areas ignores the fact that the commercial and industrial waste stream is larger than the local authority collected waste stream, making it of at least equal if not greater importance. Therefore, all waste facilities should benefit from a consultation area. The following changes to the policy are proposed:
- i. Amend the text in brackets to state: '*(with the benefit of planning permission or a lawful development certificate)*'
 - ii. Delete the following text '*The HWRCs and Strategic Sites are considered critical for the management of the County's local authority collected waste and construction, demolition and excavated waste.'*
- o) The policy mentions only a 'continued delivery' of waste facilities. It is considered that there should also be a reduction in the number of facilities within the county.

4.7. The county council's response to the above representations is as follows:

- a) The policy safeguards permitted waste sites. The policy allows for alternative uses to come forward on a site subject to certain criteria.
- b) The policy now safeguards all waste sites with an appropriate consultation buffer.
- c) The excluded development list has been revised, simplified, and brought into the policy itself.
- d) This will be determined on a case by case basis, depending on the proposed non-waste use and the existing waste operation. The policy cannot specify how this is demonstrated, this is something that must be addressed in the planning balance.
- e) The policy has been amended to include a criteria relating to overriding public benefit.
- f) The policy includes specific reference to the agent of change principle.
- g) The policy has been reworded for clarity.
- h) The demonstration of prejudice or otherwise of non-waste development in the vicinity of existing waste uses will be on a case by case basis and will depend on the nature of the developments in question, and on any proposed mitigation measures.
- i) The policy does not prevent the closure of Recycling Centres (HWRCs), provided certain criteria are met.
- j) The policy now includes specific reference to the safeguarding of Water Recycling Centres, which have an extended consultation buffer applied to them.
- k) The policy has been amended to draw emphasis to this issue.
- l) The policy has been amended to clearly cover existing waste management sites (or those with the benefit of planning permission).
- m) The policy has been amended to refer to 'Waste Management Sites', and the supporting text to the policy defines these as existing operations or permitted sites.
- n) All existing operational and permitted waste management sites are now safeguarded under the policy.
- o) The policy must ensure waste management infrastructure is safeguarded. If however sites are no longer required, due to changes in the volumes and types of wastes, the policy does allow for the redevelopment of those sites, subject to certain criteria.

5. Alternative Reasonable Options

- 5.1. The following alternative options have been considered (and fully assessed in the Sustainability Appraisal Report):
 - Option 1 – A policy which identifies several key waste management sites, mineral extraction sites, and bulk handling transport and processing facilities for safeguarding
 - Option 2- Similar to Option 1 but with a separate safeguarding policy for water recycling centres with their own consultation areas
 - Option 3 – A policy which safeguards all minerals and waste management sites, including associated infrastructure (preferred)

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 Draft 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 18 consultation stage will be carefully considered by the county council and used to inform any changes to the policy wording as appropriate.
- 6.3. This Policy Evidence Report was written to support the Draft Plan (Regulation 18) consultation. The next iteration of this report, to be published in support of the Proposed Submission (Regulation 19) version of the Plan, will summarise the main issues arising from the Regulation 18 consultation and will form part of the Regulation 22 statement, as set out by the Town and Country Planning (Local Planning) (England) Regulations 2012.