

Policy Evidence Report

Policy 13: Restoration Aftercare and After-use

**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 13: Restoration, Aftercare and After-use 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 13:
 - Paragraph 210 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 211 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. In 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 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, unless a further extension site obtains planning permission that requires this to remain.

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 24: Restoration and Policy 25: Aftercare and After-use. The policies read as follows:

Policy 24: Restoration

Proposals for mineral extraction and associated development should 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 at the application stage for the site with reference to the other policies contained in this Plan.

Proposals for mineral extraction will be permitted where it can be demonstrated within the restoration strategy that:

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

Proposals involving inert material for the restoration of the site will be permitted where it can be demonstrated that it meets all of the criteria below:

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

4.3. During the Regulation 19 consultation, 8 representations were made in relation to this policy. The main points raised by these representation include:

- a) When planning ahead for restoration, it is important that the setting of heritage assets, the historic character of landscape and the archaeology of the former extraction site itself are given due consideration and explicit reference to the historic environment is expected within the policy.
- b) It is suggest that the policy needs to include content to allow creation of nature conservation habitat of value that outweighs the potential loss of Best and Most Versatile land.
- c) There needs to be a positive statement of identifying net gain for biodiversity as a result of development schemes. A further bullet point is suggested for addition in the first list:

- *'measurable net gains to biodiversity, for species and habitats, can be achieved and maintained...'*

4.4. The county council's response to the representations received is stated below:

- a) Policy 18: Historic Environment covers considerations of heritage assets and their setting, which apply to minerals development, including restoration, however the re-drafted policy has been merged with the Aftercare and After-use policy, which includes reference to heritage assets.
- b) The policy has been merged with the Aftercare and After-use policy which requires schemes to deliver biodiversity gain.
- c) Requirements for biodiversity gain within aftercare and after-use proposals has been included within the policy.

Policy 25: Aftercare and After-use

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

- be compatible with the landscape character of the area and will not result in any unacceptable harm to local landscape character, quality and setting of heritage assets;
- respect and enhance the local character of the area;
- support the local economy;
- provide improved and increased public access to the countryside and create public open space for recreation;
- support and enhance existing places of nature conservation for habitats and species;
- maximise opportunities for sites of geological interest;
- integrate sustainable forms of transport such as walking & cycling with public transport.

Proposals for mineral extraction and associated development shall be required to submit an Aftercare Management Strategy for the site in accordance with the proposed after-use.

4.5. During the Regulation 19 consultation, 5 representations were made in relation to this policy. The main issues raised are presented below:

- a) The policy should make reference to the historic environment and amenity.
- b) The representation questions whether it would be appropriate to mention fill and resulting ground condition requirements in relation to sites where future development is proposed or possible.
- c) Aftercare and after-use needs to accord with policies elsewhere in the document and be set in context of the objective of creating net environmental gains.
- d) Reference should be made as to what will be created as a result of restoration and the ongoing stewardship of the habitats and species established.

e) The policy should address providing and maintaining improved and increased public access to sustainable transport, access to the countryside.

4.6. The county council's response to the representations received is stated below:

- a) This policy references the need to protect heritage assets and amenity and the need to demonstrate this. However, both Historic Environment and Amenity are covered under policies 18 and 19 respectively.
- b) It would not be appropriate to mention results of a restoration project as each would be site specific and dealt with on a site-by-site basis.
- c) The requirement to demonstrate biodiversity gain has been included in the policy. When deciding an application for development proposals, officers must consider all policies within the plan, including Policy 15: Biodiversity and Geodiversity.
- d) Proposals are required within the policy to submit an aftercare management strategy, in which the results and ongoing management of the site would be considered.
- e) The policy requires development proposals to demonstrate measures to provide improved and increased public access to the countryside and integrate sustainable forms of transport such as walking and cycling with public transport.

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 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 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.