

# Policy Evidence Report

## Policy 17: Soils and Agricultural Land

**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 17: Soils and Agricultural Land 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 17:
  - Paragraph 7 – The environmental objective within the NPPF to achieve sustainable development states: ‘to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.’
  - Paragraph 20 – ‘Strategic policies should set out an overall strategy for the pattern, scale and design quality of places, and make sufficient provision for ... d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.’
  - Paragraph 174 explains that ‘planning policies and decisions should contribute to and enhance the natural and local environment by a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); b) recognising the intrinsic character and beauty of the countryside, and

the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland ...’.

- Paragraph 210 – ‘Planning policies should ... f) set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable adverse impacts on the natural and historic environment or human health, taking into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality ... 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 that ‘when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy. In considering proposals for mineral extraction, minerals planning authorities should ... b) ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality ... e) provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances ...’.

2.3. The PPG includes a number of relevant sections:

- ‘Planning policies and decisions should take account of the economic and other benefits of the best and most versatile agricultural land.’

*Natural Environment, Paragraph: 001 Reference ID: 8-001-20190721*

- The PPG states the principal issues that mineral planning authorities should address. These include ‘soil resources’ and ‘impact on best and most versatile agricultural land’.

*Minerals, Paragraph: 013 Reference ID: 27-013-20140306*

- The PPG gives a criteria for the level of detail to be provided within a proposal including/for restoration and aftercare:  
‘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.'

*Minerals, Paragraph: 040 Reference ID: 27-040-20140306*

- 'Restoration and aftercare of mineral sites involves a number of key stages, which mineral planning authorities should take into account as appropriate when preparing restoration and aftercare conditions:
  - stripping of soils and soil-making materials and either their storage or their direct replacement (ie 'restoration') on another part of the site;
  - storage and replacement of overburden;
  - achieving the landscape and landform objectives for the site, including filling operations if required, following mineral extraction;
  - restoration, including soil placement, relief of compaction and provision of surface features;
  - aftercare.'

*Minerals, Paragraph: 038 Reference ID: 27-038-20140306*

- The PPG states that a restoration and aftercare scheme will include 'b. soil remediation and reinstatement measures along with details of proposed grass seed mixes ... '.

*Minerals, Paragraph: 146 Reference ID: 27-146-20140306*

- 2.4. A Green Future: Our 25 Year Plan to Improve the Environment 2018 sets out the government's plan to improve environmental health and adapt to climate change by using natural resources more sustainably and efficiently. It plans to protect the best agricultural land, protect soils as part of the natural capital and manage soils in a sustainable way.
- 2.5. Further to this, Natural England, as a statutory consultee for the loss of agricultural land, have produced guidance on reclaiming mineral and waste sites for agricultural uses. The Guide to reclaiming mineral extraction and landfill sites to agriculture (2021) states: 'for all mineral extraction or landfill development proposals you must consider if restoration is possible afterwards and if agriculture is the most appropriate afteruse.'

### **3. Local Context**

- 3.1. Soil is an important resource across the county, contributing to agricultural uses as well as biodiversity and wildlife. However, it is recognised that mineral development will often need to temporarily remove soils in order to access minerals.

- 3.2. In addition to this, soils are an important and valuable restoration material and their proper handling and conservation is essential. Mismanagement of the soil resource is likely to seriously prejudice the standard of restoration.

## 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 23: Soils and Agricultural Land. The policy read as follows:

#### **Policy 23: Soils and Agricultural Land**

Proposals must be accompanied by an assessment of existing soils (where appropriate through an Agricultural Assessment) together with a Soils Management and Handling Strategy and where possible, demonstrating any improvements that can be made to the soils.

Proposals for mineral extraction, associated development and reclamation must not result in the permanent loss of the best and most versatile agricultural land, unless it can be clearly demonstrated that:

- there is an overriding need for the development; or
- sufficient land is unavailable in a lower grade; or
- available lower grade land has an environmental value which outweighs the agricultural considerations.

Where land is returned to agricultural land, it must be returned to at least the equivalent grade of that prior to mineral extraction.

- 4.3. During the Regulation 19 consultation, this policy received 4 representations, including some support of the inclusion of this policy. The points raised are summarised below:

- a) It is considered that the policy needs to include content to allow the creation of nature conservation habitat of value that outweighs the potential loss of BMV.
- b) The policy fails to state 'where applicable' to make it clear that not all mineral after-uses must be agricultural.
- c) The policy could be further enhanced by requiring applicants to use an appropriately experienced soil specialist to advise on and supervise soil handling.

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

- a) It is important to safeguard valuable agricultural land. The policy would allow for the creation of nature conservation habitat if it is demonstrated that the need for this outweighs the loss of BMV.
- b) This policy specifically restricts development that would result in the loss of BMV land and is not as restrictive on other grades of agricultural land. The last paragraph of the policy further recognises this, 'Where land is returned to agricultural use...', acknowledging that not all after-uses will be agricultural.
- c) The policy wording has been amended to require a suitable qualified person to carry out any soil assessments, including handling.

## **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 requires consideration to be had to soils and which seeks to protect best and most versatile land
- Option 2 – A policy similar to Option 1 but which requires a Soils Management and Handling Strategy (preferred)
- Option 3 – A more restrictive policy than Option 2 which requires all development on agricultural land to be returned back to agricultural use

## **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.