

# Policy Evidence Report

## Policy 21: Water Management

**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 21: Water Management 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 21:
  - Paragraph 174 states that ‘planning policies and decisions should contribute to and enhance the natural and local environment by: ... e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans’.
  - Paragraph 185 explains that ‘planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.’
  - Paragraph 210 – ‘Planning policies should: ... 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’.

- Paragraph 211 – ‘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’.

2.3. The PPG also includes a number of relevant sections:

- The principal issues that mineral planning authorities should address, bearing in mind that not all issues will be relevant at every site to the same degree, include: ... surface and, in some cases, ground water issues; water abstraction.’

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

- Water quality is only likely to be a significant planning concern when a proposal would: ... indirectly affect water bodies, for example, as a result of new development such as the redevelopment of land that may be affected by contamination, mineral workings, water or wastewater treatment, waste management facilities and transport schemes including culverts and bridges’.

*Water Supply, Wastewater and Water Quality, Paragraph: 016 Reference ID: 34-016-20140306*

- Plan-making may need to consider:
  - how to help protect and enhance local surface water and groundwater in ways that allow new development to proceed and avoids costly assessment at the planning application stage. For example, can the plan steer potentially polluting development away from the most sensitive areas, particularly those in the vicinity of drinking water supplies (designated source protection zones or near surface water drinking water abstractions)
  - where an assessment of the potential impacts on water bodies and protected areas under the Water Environment Regulations 2017 may be required, consider the type or location of new development
  - whether measures to improve water quality, for example sustainable drainage schemes, can be used to address impacts on water quality in addition to mitigating flood risk

*Water Supply, Wastewater and Water Quality, Paragraph: 006 Reference ID: 34-006-20161116*

2.4. The National Planning Policy for Waste (NPPW) explains that waste planning authorities should consider the ‘protection of water quality and resources and flood risk management Considerations will include the proximity of vulnerable surface and groundwater or aquifers. For landfill or land-raising, geological conditions and the

behaviour of surface water and groundwater should be assessed both for the site under consideration and the surrounding area. The suitability of locations subject to flooding, with consequent issues relating to the management of potential risk posed to water quality from waste contamination, will also need particular care.'

### **3. Local Context**

- 3.1. Hertfordshire overlaps two main river catchments: the Colne in the west and Upper Lee in the east, with several others at the extremities, such as the Thames Valley in the far west of the county.
- 3.2. The River Lee and its tributaries, which rise in Hertfordshire and flow south to the Thames, have a significant flood plain area, especially to the south - Bishop's Stortford, Ware and Hertford all lie on or immediately adjacent to the floodplain. There are a number of settlements along the flood plain on the Broxbourne-Epping Forest border, including Broxbourne and Cheshunt and there are additional floodplains along other rivers in the county. The county lies within two Environment Agency river basin districts, the Anglian and Thames.
- 3.3. Despite the rich water environment, the Anglian region is the driest region in England and Wales. The region exhibits large areas where no further water is available during summer and some areas where damage is already occurring.
- 3.4. A Strategic Flood Risk Assessment (SFRA) will accompany the MWLP to assess the flood risk to minerals and waste activities. Depending on the type and scale, minerals and waste development has the potential to impact the water environment and may not be acceptable in certain flood zones.
- 3.5. Hertfordshire County Council is also the Lead Local Flood Authority (LLFA) for the plan area. The LLFA will assess any planning application to determine its impact on flood management and whether Sustainable Drainage Systems (SuDS) will be required.

### **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 14: Water Management. The policy read as follows:

### **Policy 14: Water Management**

Proposals for mineral extraction, associated development and reclamation will be required to take into account the impact on water supply, water quality and flood risk. Proposals will be permitted where it can be demonstrated that:

- there are no unacceptable adverse impacts to water quality, nature conservation and amenity value of water resources from the proposed development;
- the proposals, including reclamation of the site, reduce flood risk, taking account of climate change allowances;
- proposals do not cause adverse impacts on the flow and quality of surface water and groundwater on the site and elsewhere;
- development or operations on the site are directed away from areas of high risk of flooding;
- developments meet the National and Local principles/standards for Sustainable Drainage Systems (SuDS) design to reduce surface water run-off; and
- restoration of the site will conserve and enhance water management.

- 4.3. During the Regulation 19 consultation, 9 representations were made in relation to this policy however, mainly in support, however the remaining representations relate to the allocated sites and in particular to the presence of the bromate plume.

This matter is covered in Policy Evidence Report 02: Meeting Sand and Gravel Needs, but in summary, Policy 2: Meeting Sand and Gravel Needs and the corresponding Site Briefs make specific reference to the bromate plume.

## **Draft Waste Local Plan 2021**

- 4.4. 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 Non-strategic Policy 13: Water Management. The policy read as follows:

### **Non-strategic Policy 13: Water Management**

Waste development proposals must take account of the potential impact on water supply, water quality and flood risk. Proposals will be permitted where it can be demonstrated that:

- there are no unacceptable adverse effects to water quality, nature conservation and amenity value of water resources from the proposed development;
- climate change adaptation and mitigation measures have been implemented;
- the proposal does not cause adverse effects on the flow and quality of surface water and ground water on the site and elsewhere;
- development and operations are directed away from areas at high risk of flooding;
- development meets the National and Local principles/standards for Sustainable Drainage Systems (SuDS) design to manage and reduce surface water run-off; and
- proposals conserve and enhance the water environment.

4.5. During the consultation on the Draft Waste Local Plan, this policy received 5 representations. The points raised are summarised below:

a) The phrase '*unacceptable adverse effects*' should be strengthened to read '*no adverse effects*'.

b) Clarification was requested on what is meant by 'elsewhere'.

c) The policy should reference sensitive water habitats within or linked to the county.

d) An addition to the policy is required to accord with national and local principles for SuDS design:

*i. 'development meets the National and Local principles/standards for Sustainable Drainage Systems (SuDS) design where appropriate to manage and reduce surface water run-off; and...'*

e) The requirement to undertake appropriate site assessments must be considered on a site-by-site basis. It is suggested that more flexibility needs to be built into these policies to take account of site-by-site circumstances.

f) The policy could highlight the need to maintain an undeveloped, unobstructed 8 metre buffer from the main river as some of the sites have a river running through them (although this is mentioned in the SFRA Level 1).

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

a) Changing the phrase '*unacceptable adverse effects*' to '*no adverse effects*' would be too restrictive. It is accepted that development may lead to adverse effects, however these are to be judged in the planning balance, therefore no change to the policy wording is proposed.

b) Given that water courses and systems of flow are not isolated to specific application sites or areas, it is necessary to consider the wider impacts of a proposal. Site specific details will determine what is meant by 'elsewhere' as it would be too broad to define in policy.

- c) The policy does not state specific sites or areas. However, any application would need to align with this policy and consider how appropriate the development is for its location.
- d) The importance of national and local principles of SuDS design must be considered by all planning applications and therefore has been added to the policy.
- e) The policy does not require a specific assessment. An assessment investigating water management would be dealt with at the application stage, however, water management is an important principle that must be considered by all proposals.
- f) Specific buffers to water courses would be dealt with on a site-by-site basis.

## **5. Alternative Reasonable Options**

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

- Option 1 – A policy which requires applicants to take account of any potential impact on water supply, water quality and flood risk and demonstrate that there are no unacceptable adverse impacts on water resources
- Option 2 – Similar to Option 1 but which requires proposals to follow the sequential and exception tests and prepare a Flood Risk Assessment where appropriate (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.