

# Policy Evidence Report

## Policy 25: Public Rights of Way

**Hertfordshire Minerals and Waste  
Local Plan 2040**

**Hertfordshire County Council**



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

June 2022

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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 25: Public Rights of Way 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 25:
  - Paragraph 98 – ‘Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change ...’.
  - Paragraph 100 explains that ‘planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.’
  - Paragraph 120 – ‘Planning policies and decisions should a) encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside ...’.

2.3. The PPG includes this relevant point:

- 'Public rights of way form an important component of sustainable transport links and should be protected or enhanced ...'.

*Open space, sports and recreation facilities, public rights of way and local green space, Paragraph: 004 Reference ID: 37-004-20140306*

2.4. The Rights of Way Circular (1/09) was released by defra in October 2009. This circular gives advice to local authorities on recording, managing and maintaining, protecting and changing public rights of way. The following paragraphs from the circular are particularly relevant to this policy:

- Paragraph 7.1 – 'Proposals for the development of land affecting public rights of way give rise to two matters of particular concern: the need for adequate consideration of the rights of way before the decision on the planning application is taken and the need, once planning permission has been granted, for the right of way to be kept open and unobstructed until the statutory procedures authorising closure or diversion have been completed.'
- Paragraph 7.2 – 'The effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered.'

### **3. Local Context**

3.1. In May 2018 the County Council adopted the Hertfordshire Local Transport Plan 4 (LTP4). The plan sets out how transport can help deliver a positive future vision for Hertfordshire by having a major input into wider policies such as economic growth, meeting housing needs, improving public health and reducing environmental damage whilst also providing for safe and efficient travel.

3.2. Policy 5: Development Management of the LTP4 states: 'The county council will to work with development promoters and the district and borough councils to ... g) Resist development that would either severely affect the rural or residential character of a road or other right of way, or which would severely affect safety on rural roads, local roads and rights of way especially for vulnerable road users. This should include other routes which are important for sustainable transport or leisure.'

3.3. Further to this, the county council also produced its Rights of Way Improvement Plan in July 2017. This is the way in which Highway Authorities identify changes and improvements to local rights of way networks in order to meet the Government's aims of better provision for walkers, cyclists, equestrians (horse riders and horse and carriage drivers) and people with disabilities.

## 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 22: Public Rights of Way. The policy read as follows:

#### **Policy 22: Public Rights of Way**

Mineral extraction and associated development must, where possible, ensure that public Rights of Way are protected and not adversely affected by the proposal. Where this is not possible, proposals need to ensure that good quality, safe and convenient alternative provision is made or suitable replacement Right(s) of Way is secured.

The use of Rights of Way to obtain vehicular access to a site will not be permitted unless it can be clearly demonstrated that the safety of Rights of Way users can be adequately protected.

Proposals should improve and enhance access into the countryside, through the Rights of Way network and/or open space, creation of new Rights of Way and link where possible to the Rights of Way Improvement Plan and Green Infrastructure Plans.

- 4.3. During the Regulation 19 consultation, this policy received 3 representations. The points raised are summarised below:
- a) It is suggested that the policy needs a positive statement at the beginning to show support for sustainable development.
  - b) The last paragraph should provide for improvements as part of a restoration scheme and not only as part of a working scheme.
  - c) To accord with the Hertfordshire LTP4, the policy should be strengthened as the removal of infrastructure that provides active travel opportunities would be unacceptable.
  - d) The policy should clearly state that restoration will improve rights of way and enhance access to them.

- e) As rights of way are an environmental asset, the policy should seek to achieve net-gains and identify where this can contribute to the LTP4 objectives.

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

- a) Sustainable development is a thread running through the plan, as within the NPPF. The priority, as stated in the policy, is to protect rights of way. However, some developments may require a temporary diversion in the interests of safety and continued use.
- b) The Policy has been amended to include reference to restoration schemes. Policy 13: Restoration, Aftercare and After-use also provides for improved access to the countryside.
- c) The policy has been amended to make it clear that proposals which negatively affect active travel will not be acceptable.
- d) Restoration is a requirement of any proposal for mineral extraction. Within this policy it is stated that all proposals, including those for restoration, should improve and enhance the ROW network.
- e) The policy requires proposals to improve or enhance access to the countryside through the PROW network, through the PROW Improvement Plan and Green Infrastructure Plans/Strategies.

## **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 16: Rights of Way. The policy read as follows:

### **Strategic Policy 16: Rights of Way**

Waste development must, where possible, ensure that public Rights of Way are protected and not adversely affected by the proposal. Where this is not possible, proposals need to ensure that good quality, safe and convenient alternative provision is made or suitable replacement Rights of Way are secured.

The use of Rights of Way to obtain vehicular access to a site will not be permitted unless it can be clearly demonstrated that the safety of Rights of Way users can be adequately protected. Proposals will, where possible, improve and enhance access into the countryside, through the Rights of Way network and/or open space. Improvements to the existing network and the creation of new Rights of Way should clearly link to the Rights of Way Improvement Plan and Green Infrastructure Plans/Strategies.

4.6. During the consultation on the Draft Waste Local Plan, this policy received 2 representations. Generally, they were in support of the inclusion of this policy. The points raised are summarised below:

- a) It is considered that the Lee Valley and its towpath should be referenced within the policy to conserve access to the right of way and facilitate its use as a means of transport.

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

- a) The policy covers all Rights of Way affected by minerals and waste management development, without giving reference to specific rights of way.

## **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 seeks to protect and enhance PRoW
- Option 2 – A policy similar to Option 1 but which promotes the benefits of active travel and seeks links in improvements to other plans and strategies (preferred)
- Option 3 – Similar to Option 2 but which is less restrictive on the requirements for alternative/temporary provision

## **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.