

# Policy Evidence Report

## Policy 5: Mineral Safeguarding Areas

**Hertfordshire Minerals and Waste  
Local Plan 2040**

**Hertfordshire County Council**



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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 sets 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 5: Mineral Safeguarding Areas in the emerging Minerals and Waste Local Plan. It also contains a reasoning for the changes made to the policy between the Draft Plan publication and the Proposed Submission Plan publication.

## 2. National Policy Context

- 2.1. The National Planning Policy Framework (NPPF 2023) and National Planning Practice Guidance (PPG) provide the basis of national planning policy.
- 2.2. The following points within the NPPF relate to Policy 5:
- Paragraph 8 states the environmental objective in order to achieve sustainable development: *'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...'*
  - Paragraph 215 highlights the need to safeguard mineral resources: *'It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.'*
  - Paragraph 216 states that *'planning policies should ...*
    - *c) safeguard mineral resources by defining Mineral Safeguarding Areas and Mineral Consultation Areas; and adopt appropriate policies so that*

*known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked);*

- *d) set out policies to encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place ...'.*
- Paragraph 218 states: *'Local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.'*
- The NPPF offers definitions for Mineral Consultation and Safeguarding Areas:
  - ***'Mineral Consultation Area:*** *a geographical area based on a Mineral Safeguarding Area, where the district or borough council should consult the Mineral Planning Authority for any proposals for non-minerals development.*
  - ***Mineral Safeguarding Area:*** *An area designated by minerals planning authorities which covers known deposits of minerals which are desired to be kept safeguarded from unnecessary sterilisation by non-mineral development'.*

2.3. The PPG section on Minerals states:

- *'minerals can only be worked (ie extracted) where they naturally occur, so location options for the economically viable and environmentally acceptable extraction of minerals may be limited. This means that it is necessary to consider protecting minerals from non-minerals development and has implications for the preparation of minerals plans and approving non-mineral development in defined mineral safeguarding areas ...'.*

*Paragraph: 001 Reference ID: 27-001-20140306*

- *Mineral planning authorities should adopt a systematic approach for safeguarding mineral resources, which:*
  - *uses the best available information on the location of all mineral resources in the authority area. This may include use of British Geological Survey maps as well as industry sources;*
  - *consults with the minerals industry, other local authorities (especially district authorities in 2-tier areas), local communities and other relevant interests to define Minerals Safeguarding Areas;*
  - *sets out Minerals Safeguarding Areas on the policies map that accompanies the local plan and define Mineral Consultation Areas; and*
  - *adopts clear development management policies which set out how proposals for non-minerals development in Minerals Safeguarding Areas will be handled, and what action applicants for development should take to address the risk of losing the ability to extract the resource. This may include policies that encourage the prior extraction of minerals, where practicable, if it is*

*necessary for non-mineral development to take place in Minerals Safeguarding Areas and to prevent the unnecessary sterilisation of minerals.*

*Paragraph: 003 Reference ID: 27-003-20140306*

- *Whilst district councils are not mineral planning authorities, they have an important role in safeguarding minerals in 3 ways:*
  - *having regard to the local minerals plan when identifying suitable areas for non-mineral development in their local plans. District councils should show Mineral Safeguarding Areas on their Policies Maps;*
  - *in those areas where a mineral planning authority has defined a Minerals Consultation Area, consulting the mineral planning authority and taking account of the local minerals plan before determining a planning application on any proposal for non-minerals development within it; and*
  - *when determining planning applications, doing so in accordance with development policy on minerals safeguarding, and taking account of the views of the mineral planning authority on the risk of preventing minerals extraction.*

*Paragraph: 005 Reference ID: 27-005-20140306*

### **3. Local Context**

- 3.1. Much of Hertfordshire is underlain by sand and gravel deposits which provide valuable resources for construction materials and the future needs of Hertfordshire. Minerals are finite resources and can only be worked where they are found. Allowing new built development to take place on top of these deposits could make these valuable mineral resources inaccessible for future extraction, by 'sterilising' them from potential future use. This sterilisation can occur either directly by building on top of the deposits, or indirectly, for example, by building new houses close to a mineral deposit, and thus preventing extraction due to the proximity to the new development.
- 3.2. For Hertfordshire, Mineral Safeguarding Areas (MSAs) have been identified based on British Geological Survey (BGS) data.
- 3.3. The county council and district/borough councils will work collaboratively through early engagement during Local Plan preparations and pre-applications to promote mineral safeguarding.
- 3.4. If planning applications for non-minerals development submitted to the district/borough councils (unless it falls within the stated thresholds for excluded development) fall within an MSA, the Minerals Planning Authority must be consulted to have the opportunity to consider whether the development proposed would lead to unacceptable sterilisation of potentially extractable mineral resources. This process allows for the county council and district/borough councils to work together to protect the resources within the identified MSAs.

## 4. Minerals & Waste Local Plan Policy

4.1. The Draft Minerals and Waste Local Plan was published for a Regulation 18 public consultation from 22 July to 31 October 2022. During the consultation period, members of the public, industry and other bodies were invited to comment on the policies within the Plan. This report shows the draft policy as published within the Draft Plan document, along with the main issues raised and the council's response to them.

### Minerals and Waste Local Plan Draft Plan 2022

4.2. The Regulation 18 Draft Plan document included Policy 5: Mineral Safeguarding Areas. The policy read as follows:

#### **Policy 5: Mineral Safeguarding Areas**

The Mineral Planning Authority (MPA) safeguards known mineral resources of sand and gravel and brick clay from unnecessary sterilisation by non-mineral development, through the use of Mineral Safeguarding Areas (MSAs), as identified on the Policies Map.

Any proposal for non-mineral development which falls within an MSA must be subject to consultation with the MPA except:

- a) minor householder applications;
- b) advertisements;
- c) listed building consent;
- d) works to trees or tree preservation orders;
- e) applications within a settlement's development limits\*; and
- f) development within a site allocated in the Development Plan.

Following consultation with the MPA, the submission of a Mineral Resource Assessment (MRA), undertaken by a suitably qualified professional and including geological survey data, may be required to establish the existence or otherwise of a viable mineral resource<sup>†</sup>.

Where proposals for large scale regeneration projects fall within development limits (either in whole or in part), the MPA may request an MRA to assess the potential for prior extraction.

The MPA will object to proposals for non-mineral development within MSAs based on the findings of the MRA unless it is clearly demonstrated that:

- g) prior extraction of mineral will take place and the mineral extracted will be put to sustainable use; or
- h) mineral extraction is not environmentally acceptable; or
- i) the mineral is not of current or future economic value; or
- j) the need for the non-mineral development demonstrably outweighs the sterilisation of the mineral resource; or
- k) the proposed development would not constrain present and/or potential future mineral development.

Where mineral cannot practicably be extracted in advance of the proposed development, full consideration must be given to the use of material on site through opportunistic extraction, in order to reduce the need for material to be imported.

\* Development limits form the edge of a settlement and are defined on the Policies Map for the area. Where they are not defined, they will constitute the edge of the built form of the settlement.

†Guidance on preparing a Mineral Resource Assessment can be found at Appendix 3

4.3. During the Regulation 18 consultation, 8 representations were made in relation to this policy. The main issues of these are summarised below:

- a) It is suggested that sites located in SPZ1 (source protection zone) that may affect groundwater resources should be excluded from mineral safeguarding areas.
- b) It would be helpful if the supporting text could set out the requirements for MRAs.
- c) Suggested change to paragraph 5.32: “MSAs are identified on the Policies Map and cover known deposits of sand and gravel and for brick clay. The MSAs are based on British Geological Survey (BGS) data at 1:50,000 scale with previously worked areas removed. The extent of the MSAs includes the addition of a 100m buffer surrounding **the mapped extent of the deposits of sand and gravel and/or brick clay**, thereby constituting the relevant MCA around the resource **and factoring in uncertainty in the mapping**. Any proposals for non-mineral development within MSAs will need to consult the MPA.”
- d) It is recommended that criteria I of Policy, “the mineral is not of current or future economic value;”, should be reconsidered due to the difficulty of applying this. As part of the Essex Minerals Local Plan Review, it is being proposed to replace references to ‘economic importance’ with ‘practical’ in order to relate the approach more closely to Paragraph 210 d) of the NPPF. Economic considerations would factor into this wider notion of ‘practicality’. Similarly, it is considered that criteria h should be re-worded to state ‘environmentally feasible’ to match NPPF (July 2021) Paragraph 210d.

4.4. The council’s response to the main issues is as follows:

- a) The county council identifies the entirety of the area of known mineral resources of sand and gravel, chalk and brick clay. Any proposals within these areas for minerals or waste development must accord with the other plan policies including Policy 21: Water Management.
- b) This is referenced in the supporting text and is also covered in Appendix 3: Safeguarding of Minerals and Waste Infrastructure and Resources.
- c) Comments are noted and some of the changes will be accepted. It is not necessary to mention factoring in uncertainty in the mapping, as while this may be the case, this is not the function of the 100m buffer.
- d) The Council agrees and will make the necessary change to the policy.

## **5. Alternative Reasonable Options**

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

- Option 1 – A less restrictive policy which would potentially allow more development to take place within MSA's, without the need to consult the MPA
- Option 2 – A policy which safeguards known deposits of sand and gravel and brick clay through the use of MSA's and includes criteria which determine when the MPA must be consulted (preferred)
- Option 3 – A more restrictive policy than Option 2, with more stringent requirements for prior extraction and for when the MPA must be consulted

## **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 Proposed Submission 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 19 consultation stage will be submitted alongside the Local Plan to the Secretary of State as part of the examination process.

6.3. This Policy Evidence Report was written to support the Proposed Submission Plan (Regulation 19) consultation. This report forms part of the Regulation 22 statement, as set out by the Town and Country Planning (Local Planning) (England) Regulations 2012.