

Policy Evidence Report

Policy 17: Soils and Agricultural Land

**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 17: Soils and Agricultural Land 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 17:
- Paragraph 8 – 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 180 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 216 – ‘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 217 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. 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 17: Soils and Agricultural Land. The policy read as follows:

Policy 17: Soils and Agricultural Land

Proposals for minerals or waste development which involve the removal of soils, must be accompanied by a detailed assessment of existing soils together with a Soils Management and Handling Strategy. Such assessments must be carried out by a suitably qualified professional and where possible, should demonstrate any improvements that can be made to the soils.

Proposals for minerals or waste development must not result in the permanent loss of best and most versatile agricultural land, unless it can be clearly demonstrated that:

- a) there is an overriding need for the development; and
- b) sufficient land is unavailable in a lower grade.

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

4.3. During the Regulation 18 consultation, 2 representations were made in relation to this policy. The main issues of these are summarised below:

- a) It is stated that Minerals and Waste Development often includes soil handling rather than just removal. It is, therefore proposed that policy wording be amended as follows: ‘... which involve the ~~removal~~ **handling** of soils ...’.
- b) It is proposed that the policy be amended to read ‘... accompanied by a detailed assessment of existing soils together with a Soils Management and Handling Strategy **to ensure an appropriate provision is in place to maintain the quality of the soils.**’ to be more consistent with national policy.
- c) It is considered that the policy criterion is not clear or precise and therefore unsound.
- d) Reference should be made to Defra’s Construction Code of Practice for the Sustainable Use of Soils on Construction Sites.

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

- a) The Council agrees with this change.
- b) Wording will be added as follows ‘, *to ensure that the quality of soils is maintained*’.
- c) The Council believes the wording of the criteria is clear, and it is not possible to add a greater level of precision. The demonstration of overriding need must be taken in the full planning balance. No change therefore required.
- d) It is not considered that the policy should make reference to the guidance, which dates from 2009. Whilst it does contain relevant advice, it may not reflect current legislation or controls.

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 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 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.