

# Policy Evidence Report

## Policy 19: Protection and Enhancement of Amenity

**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 19: Protection and Enhancement of Amenity 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 19:
  - Paragraph 8 states the three overarching objectives for achieving sustainable development. The social objective states: *'to support strong, vibrant and healthy communities, ... by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being ...'*.
  - Paragraph 135 explains that planning policies should ensure that developments:
    - *'a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; ...*
    - *c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); ... and*
    - *f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and*

*future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'*

- Paragraph 191 states: *'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 ... In doing so they should:*
  - *a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*
  - *b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
  - *c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.'*
- Paragraph 216 states that 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'.*

2.3. The PPG includes some relevant information:

- *'The planning system controls the development and use of land in the public interest and ... this includes ensuring that new development is appropriate for its location – taking account of the effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution'.*  
*Minerals, Paragraph: 012 Reference ID: 27-012-20140306*

2.4. The National Planning Policy for Waste also includes a number of relevant points:

- Paragraph 7 states that waste planning authorities should *'consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B and the locational implications of any advice on health from the relevant health bodies ... ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located ...'*
- The locational criteria in Appendix B of the document encourages waste planning authorities to consider the following areas:
  - a. protection of water quality and resources and flood risk management
  - b. land instability
  - c. landscape and visual impacts
  - d. nature conservation
  - e. conserving the historic environment
  - f. traffic and access

- g. air emissions, including dust
- h. odours
- i. vermin and birds
- j. noise, light and vibration
- k. litter
- l. potential land use conflict

### **3. Local Context**

- 3.1. Hertfordshire residents enjoy a relatively good quality of life with high levels of employment, access to services and recreation, and a range of high quality built and natural environments. These all contribute to the county's amenity, which is an important consideration in planning. A broad range of features contribute to amenity, including land uses such as private/public gardens, sports fields, country paths and an extensive public Rights of Way network. There are also natural features which further contribute, including mature trees and water bodies.
- 3.2. There are sensitive receptors in the county which will be impacted by varying degrees to amenity issues caused by mineral and waste development. This policy therefore seeks to protect these receptors from impacts such as light, noise, and air pollution (e.g. dust).
- 3.3. In December 2017, a Joint Strategic Needs Assessment was created on air quality within Hertfordshire. This found that in 2011, Hertfordshire had a higher mean concentration of fine particulate matter than England and whilst in 2015, both Hertfordshire and England's mean concentration had fallen; Hertfordshire was still higher than England's average.

### **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 19: Protection and Enhancement of Amenity. The policy read as follows:

### **Policy 19: Protection and Enhancement of Amenity**

Proposals for minerals and waste management development will only be permitted where it can be clearly demonstrated, through an assessment, that consideration has been given to the amenity of the users of neighbouring land and/or property\*. Such an assessment must consider potential impacts relating to:

- a) the protection from light pollution;
- b) air quality (including from dust, odours and other sources);
- c) privacy;
- d) noise and vibration;
- e) increases in litter;
- f) increases in vermin; and
- g) factors affecting human health and/or safety.

Where the assessment identifies the potential for any negative impact relating to the above factors, it must clearly be demonstrated where appropriate mitigation measures have been incorporated to remove the impact, or ameliorate it to acceptable levels. The assessment should also show, where appropriate, how enhancements have been made to amenity.

Where development proposals involve the operational movement of vehicles beyond the immediate environs of the site, amenity impacts covering a wider area will, where appropriate, also need to be considered.

\*This includes the future users of land and/or property relating to development proposals that are permitted and/or allocated in the Development Plan, but which may not yet be completed/occupied.

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 stated that the term 'Privacy' within the policy criteria is not referenced in national policy and it is not clear why this is included.
- b) It is considered near impossible to consider impacts further afield due to the scale of vehicles or activity on the wider highways network. It is recommended that this be amended to refer to the need to consider amenity impacts from operational movements in the immediate environs of the given site.
- c) It is considered that this policy fails to reference the impact that minerals and waste operations have on neighbouring highways. The policy should be reworded to include specific reference to the impact on the highways infrastructure.

- d) It is suggested that the policy be amended to include specific reference to the use of enforcement powers and CIL/S106 to avoid debris being deposited on the highway.
- e) In the supporting text of this policy, paragraph 5.157 mentions “Nature 2000 sites”. The term ‘Natural 2000 sites’ should be replaced with ‘Habitats Site’ to update the terminology as this is now an outdated reference.

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

- a) In the recent case of Fearn v Board of Trustees of the Tate Gallery (February 2023), the Supreme Court overturned the Court of Appeal’s decision and concluded that visual intrusion is capable of giving rise to a liability in nuisance. Therefore it is appropriate for minerals and waste management proposals to have consideration of the impact they may have on matters of privacy. No changes therefore proposed to the policy.
- b) It is important to consider impacts beyond the immediate environs of a site, however the Council partly agrees with the concerns raised, therefore the policy wording will be amended accordingly.
- c) This is covered under Policy 24: Transport and is not necessary to repeat here
- d) Comments noted, however it is not necessary to reference enforcement powers within the policy
- e) Comments noted and the supporting text will be amended accordingly, i.e. the term Natura 2000 will be replaced with reference to the National Site Network.

## 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 of the protection and enhancement of amenity through an assessment
- Option 2 – A policy similar to Option 1 but which lists specific amenity considerations which any assessment must have regard to
- Option 3 – A policy similar to Option 2 but requiring further consideration of the effects of traffic movements beyond the application site (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 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.