

# Policy Evidence Report

## Policy 25: Public Rights of Way

**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 25: Public Rights of Way 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 25:
  - Paragraph 102 – *‘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 104 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 124 – *‘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. 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 25: Public Rights of Way. The policy read as follows:

#### **Policy 25: Public Rights of Way**

Development proposals should ensure that public rights of way, including rights of way infrastructure which forms part of active travel opportunities, are protected and not adversely affected. Where this is not possible, proposals must ensure that alternative provision is made of an equivalent quality, safety and convenience (including any temporary provisions).

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.

All proposals (including restoration) should, where possible, improve and enhance access, including to the countryside, by means of active travel, through the rights of way network and/or open space. Such improvements should clearly link to the Rights of Way Improvement Plan, Active Travel Plan and Green Infrastructure Plan.

4.3. During the Regulation 18 consultation, 5 representations were made in relation to this policy. The main issues of these are summarised below:

- a) It is suggested that the final sentence include a link to 'Local Cycling and Walking Infrastructure Plans (LCWIPs)'.
- b) Suggest additional wording / paragraph after final paragraph of Policy
  - Design of surfacing, intersections/crossings with the All Purpose Highway and any necessary wayfinding or controlling infrastructure should accord with contemporary design guidance that exists locally and nationally (including Local Transport Note 1/20 or subsequent edition). Where crossings for equestrians are provisioned, these should enable equestrian users to cross without dismounting including the use of Pegasus Crossing facilities.
- c) Suggested changes to supporting text for clarity and context

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

- a) The Council agrees with the suggested change and the relevant reference will be added to the Policy.
- b) Suggested wording will be taken into account
- c) Suggested changes to supporting text will be made

## **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 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 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.