

Policy Evidence Report

Policy 4: Site Safeguarding Consultation 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 4: Site Safeguarding Consultation Areas in the emerging Minerals and Waste Local Plan. It also contains reasoning for any 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 4:
 - Paragraph 193 states: *'Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.'*
 - Paragraph 216 states that *'planning policies should ... safeguard existing, planned and potential sites for: the bulk transport, handling and processing of minerals; the manufacture of concrete and concrete products; and the handling,*

processing and distribution of substitute, recycled and secondary aggregate material

2.3. The PPG section on minerals states:

- *'Planning authorities should safeguard existing, planned and potential storage, handling and transport sites to:*
 - *ensure that sites for these purposes are available should they be needed; and*
 - *prevent sensitive or inappropriate development that would conflict with the use of sites identified for these purposes.*

In areas where there are county and district authorities, responsibility for safeguarding facilities and sites for the storage, handling and transport of minerals in local plans will rest largely with the district planning authority. Exceptions will be where such facilities and sites are located at quarries or aggregate wharves or rail terminals.

Planning authorities should consider the possibility of combining safeguarded sites for storage, handling and transport of minerals with those for processing and distribution of recycled and secondary aggregate. This will require close co-operation between planning authorities.'

Paragraph: 006 Reference ID: 27-006-20140306

2.4. The National Planning Policy for Waste (NPPW) includes the following point:

- *Paragraph 3 – 'Waste planning authorities should prepare Local Plans which identify sufficient opportunities to meet the identified needs of their area for the management of waste streams. In preparing Local Plans, waste planning authorities should: ... work collaboratively in groups with other waste planning authorities, and in two-tier areas with district authorities, through the statutory duty to cooperate, to provide a suitable network of facilities to deliver sustainable waste management; consider the extent to which the capacity of existing operational facilities would satisfy any identified need.'*

2.5. The Waste (England and Wales) Regulations 2011 states:

- *Schedule 1, part 1 (4) –*
 - '(1) To establish an integrated and adequate network of waste disposal installations and of installations for the recovery of mixed municipal waste collected from private households, including, where such collection also covers such waste from other producers, taking into account best available techniques ...*
 - (3) The network must enable waste to be disposed of and mixed municipal waste collected from private households to be recovered in one of the nearest appropriate installations, by means of the most appropriate technologies, in order to ensure a high level of protection for the environment and human health ...'*

3. Local Context

- 3.1. Mineral and waste infrastructure across the country is under threat from new sensitive development being created close to operations which commonly create noise, dust and visual impacts, and which are often considered unsuitable as neighbouring land-uses for the new development.
- 3.2. When moving minerals over long distances, rail heads and wharves can serve as important strategic mineral infrastructure for the supply of minerals in Hertfordshire. The county does not have any coastline and as a result does not have the potential for marine wharves, however there is the potential for wharves on the rivers within the county such as the River Lea, where boats can dock and unload minerals.
- 3.3. Rail heads are used for the import and export of sand and gravel and they are essential infrastructure within Hertfordshire for importing hard rock as the county does not contain deposits of hard rock. They form part of a strategic network of transportation of sub-national and national importance for the movement of minerals as well as construction, demolition and excavation wastes.
- 3.4. This transportation is particularly important when insufficient land exists close to the waste's origin for suitable waste management facilities as is frequently the case in London. Facilities for bulk transport are hard to re-locate due to the increasing demands for land and the associated impacts with their operation, adding to the importance of their safeguarding.
- 3.5. There are also many different types of waste management facilities across Hertfordshire. Maintaining and increasing (where necessary) the capacity of this network of waste management facilities, is one of the key objectives for the council over the period of the Minerals and Waste Local Plan. A robust and diverse network of waste management facilities will help the county to maintain overall net self-sufficiency, meet its capacity gap shortfalls and reduce the need for the transportation of waste outside of the county.
- 3.6. By implementing consultation areas, the council will have the opportunity to consider whether proposed developments would lead to unacceptable impacts on the mineral and waste infrastructure. This process allows for the county council and district/borough councils to work together to protect the existing infrastructure within the identified consultation areas, as well as protecting new development. The council encourages early engagement and involvement in the preparation of district/borough Local Plans in addition to engagement at the pre-application stage to ensure that potential issues can be addressed at the earliest stage possible.

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 4: Site Safeguarding Consultation Areas. The policy read as follows:

Policy 4: Site Safeguarding and Consultation Areas

The Council will safeguard existing and future minerals and waste management sites, including associated infrastructure*, through the use of Site Safeguarding Areas (SSAs) and Site Consultation Areas (SCAs).

Site Safeguarding Areas (SSAs)

SSAs are defined on the Policies Map and comprise Mineral Allocation Sites (MAS), Mineral Development Sites (MDS), Transport Infrastructure Sites (TIS), Waste Management Sites (WMS) and Water Recycling Sites (WRS).

The County Council must be consulted on all development proposals which fall within an SSA.

Development proposals within MAS and MDS will only be supported where they are in accordance with the site's permitted or allocated use, including the site's restoration.

Development proposals which would result in the loss of, or reduced capacity of a TIS, WMS or WRS will only be supported where it can be clearly demonstrated that:

- a) suitable alternative capacity has been made available elsewhere prior to the loss or reduced capacity occurring; or
- b) the loss of such capacity will not have a detrimental impact on the wider function which the TIS, WMS or WRS serves; or
- c) the site is allocated for the proposed use in the Development Plan; or
- d) the proposal would provide demonstrable, overriding benefits, in the public interest, which would outweigh the loss of, or reduced capacity of the site.

Site Consultation Areas (SCAs)

SCAs are defined on the Policies Map as a 250m buffer surrounding SSAs (400m for WRS). The County Council must be consulted on all development proposals within an SCA, through the submission of a Consultation Area Assessment[†], except:

- e) minor householder applications; or
- f) advertisements.

The County Council will oppose any development proposals within an SCA unless it is clearly demonstrated that:

- g) the proposed development will not prejudice the current or future use of the SSA which falls within the SCA; and
- h) the users of the proposed development will not suffer any unacceptable adverse amenity or health issues resulting from the continued or future use of the development within the SSA.

In accordance with the agent of change principle, where development proposals within an SCA require mitigation measures in order to satisfy g) and/or h) above, the applicant will be required to provide such mitigation.

Where applications for new or extensions to existing MDS, TIS, WMS or WRS are approved, this policy will apply to those sites, regardless of them not being shown on the Policies Map. The list of SSAs will be updated annually in the Council's Authority Monitoring Report.

*This includes sites for the bulk transport, handling and processing of minerals and waste; the manufacture of concrete and concrete products; and the handling, processing and distribution of substitute, recycled and secondary aggregate material.

[†]Detailed guidance on preparing a Consultation Area Assessment can be found at Appendix 3

4.3. During the Regulation 18 consultation, 17 representations were made in relation to this policy. The main issues of these are summarised below:

- a) It is stated that the policy should lay out each type of site and the SCA it is surrounded by.
- b) It is stated that the reference to "allocated use" in the policy should clarify that it does include land uses allocated in the Development Plan.
- c) It is suggested that the policy should allow redevelopment of a MDS where one of criteria a) to d) applies.
- d) It is considered that the policy should be split into three separate policies (minerals, waste, and ancillary development) to provide an effective means to safeguard the different land uses.

- e) It is proposed that under the 1st policy footnote, cross reference could also be made to other added value operations such as aggregates bagging and soils processing.
- f) It is considered that the SCA distance should be at least 500m. It is considered that this distance would be required (as a minimum) to ensure that the risks of adverse effects are minimised.
- g) It is considered that a residential development exclusion zone (250m) would better address the potential for conflict between waste and residential land uses.
- h) It is stated that the term 'elsewhere' in criterion a) should be clarified or defined.
- i) It is considered that the term 'wider function' within criterion b) should be defined and clarified.
- j) It is stated that criterion c) should give weight to sites included in a Development Plan going through the examination and/or adoption process.
- k) It is considered that the provision of 'overriding benefits' within criterion d) should be further explained to detail how this might be met.
- l) The appropriateness of Criteria C, which states that "the site is allocated for the proposed use in the Development Plan", is questioned. The plan makers should consider ensuring the primacy of the adopted MWLP where decision-making is related to minerals and waste developments. For example, it cannot be guaranteed an allocation within a Development Plan has been allocated without consulting the Minerals and Waste Planning Authority (MWPA) due to potential oversight. It is considered that criteria C creates an unnecessary fettering of the decision making process.
- m) Birchall Lane should be protected under Policy 4. However, the designation of site as both a MDS and a WMS creates confusion given the different approaches to both designations. The site has previously only been considered as a waste site by the council in both the adopted Plan and planning applications and it is considered that the MDS designation should be removed, given the nature and characteristics of the site. The removal of the MDS categorisation will enable the site to be redeveloped for employment in accordance with the Local Plan position and in conformity with the Mineral and Local Plan, which is what will need to happen as Birchall Garden Suburb materialises.
- n) Careful consideration should be given to whether Burnside should be designated only as a WMS (rather than additionally as a MDS) or, even if the site is also designated as a MDS, whether Policy 4 should entirely preclude any form of re-use of that site.
- o) Cole Green Recycling Centre should not be designated as a WMS in the Regulation 19 version of the Plan, given that the council served notice it will be vacating this site.
- p) Rickneys Quarry has not been listed as a Minerals Development Site (MDS), nor does it benefit from a Site Safeguarding Area (SSA) or Site Consultation Area (SCA) and is therefore not currently safeguarded under Policy 4. It is preferred that Rickneys Quarry should be identified as a MDS and benefit from a SSA and SCA.

- q) Burnside is identified as one of several Mineral Development Sites (MDS) that play an important role in the operation of the minerals industry. A green buffer has been proposed around the facilities at Burnside on the Welwyn Hatfield Local Plan Policies Map, and the area south of the facilities at Birchall Lane/Cole Green is being proposed as open space. It is considered that the plan should acknowledge this and not require further consultation with HCC.
- r) Some waste sites may not be ideally located either with regard to logistics or location, and under such circumstances a blanket safeguarding approach should not apply.
- s) The term "infrastructure" is further defined in a footnote of Policy 4 which refers to "sites for the bulk transport, handling and processing of minerals and waste." It is not clear why this further clarification is added and creates further confusion between what is intended to be covered by the definition of waste management sites and why.
- t) Regarding criterion d of the Policy, how might 'overriding benefits in terms of the public interest' be clearly demonstrated?
- u) This Policy introduces a greater level of test, and hence hurdle, to redevelopment to that set out in the existing Plan policy. Given the continued absence of national policy on the matter, it is not clear why it is proposed to introduce these additional policy tests.

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

- a) It is considered that the policy clearly states the site types covered by SCAs and the supporting text explains what the different site types are.
- b) The policy wording will be amended for clarity
- c) It is accepted that some MDS are not involved with the winning and working of minerals, such as concrete batching plants, and the current policy wording would restrict their relocation to support non-mineral development, therefore the policy will be amended to provide exceptions for these instances.
- d) Plans are meant to be succinct. It is felt that the policy adequately covers the safeguarding aspects of all sites without the need to split the policy, which could introduce duplication.
- e) The footnote covers aggregate bagging and soils processing and accords with paragraph 216 of the NPPF.
- f) A balance needs to be struck between safeguarding sites and proposed non-minerals and waste development, with reducing the burden on Planning Authorities with regards to excessive consultation. It is felt that 250m is an appropriate distance and accords with consultation buffers used by other County Planning Authorities and examples cited by the British Geological Survey.
- g) Preventing residential development within 250m of waste uses would be unnecessary, as residential uses can be acceptable within 250m of certain waste uses. The 250m SCA buffer will ensure the Minerals and Waste Authority

is consulted on applications for residential use within 250m of waste sites, and can determine their acceptability (or not) on a case by case basis.

- h) Provided that the alternative capacity is suitable then it is felt that the precise location need not be defined.
- i) The sites referred to in criterion b) serve varying functions. Taking WMS as an example, a particular WMS might serve the wider function of handling materials recycling for the county. If this wider function is not detrimentally impacted by the loss of a particular individual facility, then proposals resulting in that loss may be supported. The council will however consider re-phrasing this in the policy to aid clarity.
- j) It is not appropriate to give weight to unadopted allocations, as regardless the stage of plan preparation, weight attributed to them is dependent on a number of factors, including the number and nature of unresolved objections to that particular allocation.
- k) The onus to prove 'demonstrable overriding benefits' through a proposal would be placed upon the applicant, be specific to that development proposal, and be decided by the determining planning authority taking all factors in the planning balance. Therefore, it would not be possible within policy to explain how this would be met.
- l) Whilst the Council agrees with the comments, it should be the case that sites are only allocated in the Development Plan following full engagement with the Minerals and Waste Planning Authority. Also, the wording of the policy is such that, even if development on an allocated site would result in loss or reduced capacity of a TIS, WMS or WRS, the County Council can still object to it. Therefore no change to the policy is required.
- m) The council acknowledges the comments and will review the designations at Birchall Lane to allow the required flexibility.
- n) The designations of the two sites at Burnside will be changed.
- o) The council will remove the WMS designation from Cole Green. The site will not be safeguarded in the Regulation 19 Plan.
- p) Rickneys Quarry does not have planning permission. The council will not be designating this site as a MDS or safeguarding it under Policy 4.
- q) Whilst the council recognises the efforts of the Borough Council to protect Burnside from the Birchall Garden Suburb development, the council would still like to be consulted on any applications near the site.
- r) Applications for non-waste development on safeguarded waste sites will be dealt with on their merits, taking account of the safeguarding criteria in Policy 4
- s) The footnote will be removed and the policy and supporting text will provide further clarity.
- t) This cannot be quantified and is for the applicant and decision taker to determine, taking account of all factors in the planning balance.
- u) The council does not believe that the emerging policy adds unnecessary tests above what is required in the current adopted policy, rather it provides greater clarity.

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 identifies several key waste management sites, mineral extraction sites, and bulk handling transport and processing facilities for safeguarding
- Option 2- Similar to Option 1 but with a separate safeguarding policy for water recycling centres with their own consultation areas
- Option 3 – A policy which safeguards all minerals and waste management sites, including associated infrastructure (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.