

**HERTFORDSHIRE COUNTY COUNCIL**

**CABINET  
MONDAY, 13 JULY 2015 AT 2.00PM**

**COUNTY COUNCIL  
TUESDAY, 21 JULY 2015 AT 10.00AM**

Agenda Item No.

**7**

Agenda Item No.  
(See Council  
agenda for item  
number)

**MINERALS LOCAL PLAN REVIEW, DRAFT INITIAL CONSULTATION  
DOCUMENT**

*Report of the Chief Executive and Director of Environment*

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Executive Member: Derrick Ashley, Environment, Planning & Transport

**1. Purpose of report**

1.1 To enable Members to consider whether to approve the Minerals Local Plan draft Initial Consultation document (Appendix 1 to this report) for a period of formal consultation of at least ten weeks, to commence in August, in accordance with Part 6 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

**2. Summary**

2.1 As the Minerals Planning Authority for Hertfordshire, the County Council has a statutory responsibility to prepare, implement and review a Minerals Local Plan as part of the development plan<sup>1</sup>.

2.2 The existing Minerals Local Plan, adopted in March 2007, requires a formal process of review to ensure that the contents of the Plan reflect changes made to national policy, namely the introduction of the National Planning Policy Framework in 2012, and to ensure that recent guidance and changing circumstances in the County are incorporated into the County Council's minerals policy.

2.3 The County Council has an adopted Statement of Community Involvement (SCI) which sets out the formal stages of consultation the County Council must undertake during the preparation of a local plan. Initial Consultation is the first of these stages.

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<sup>1</sup> The Hertfordshire development plan consists of the 10 District & Borough Local Plans, the Minerals Local Plan and the Waste Local Plan

2.4 The purpose of Initial Consultation is to seek views from interested parties including district/borough councils, members of industry and neighbouring Authorities of the subject of the planning document being prepared, and to invite representations to be made regarding the contents of the Plan. Following Initial Consultation, the County Council will take into account all representations in the preparation of subsequent documents as part of the Minerals Local Plan review process.

### **3. Recommendation**

3.1 The Environment, Planning & Transport Cabinet Panel will consider a report on this item of business at its meeting on 10 July 2015. The Panel will be invited to recommend that Cabinet recommends to Council that Council approves the draft Initial Consultation document and a ten week period of public consultation commencing in August 2015, in accordance with Town and Country Planning (Local Planning) (England) Regulations 2012.

3.2 The Panel's recommendation to Cabinet will be reported orally at the Cabinet meeting and circulated to Members in the Order of Business.

3.3 Cabinet's recommendation to Council will be reported at the Council meeting and circulated to Members in the Order of Business.

### **4. Background to the Initial Consultation**

4.1 As Minerals Planning Authority for Hertfordshire, the County Council has a statutory responsibility to ensure a steady and adequate supply of minerals for the County. It does this by preparing, implementing and reviewing a Minerals Local Plan as part of the development plan.

4.2 Since the Minerals Local Plan was adopted in March 2007 there have been a number of changes to the planning system. The most significant of these include the coming into force of the following:-

1. Localism Act 2011
2. National Planning Policy Framework (2012)
3. Town and Country Planning (Local Planning) (England) Regulations 2012.

4.3 In light of these changes, the existing Minerals Local Plan needs to undergo a process of review to ensure the County Council meets its statutory responsibility to maintain an up to date plan. Additionally, a review will ensure that the Plan takes account of new information and changing circumstances in the County and will allow appropriate guidance to be given to mineral operators as to where future mineral extraction should take place.

4.4 The Community Safety and Planning Cabinet Panel considered the proposed way forward for the proposed way forward for the Minerals Local Plan review in November 2014, papers may be viewed at:

<https://cmis.hertsdirect.org/hertfordshire/Calendarofcouncilmeetings/tabid/70/c>

<http://www.hertfordshire.gov.uk/ViewMeetingPublic/mid/397/Meeting/52/Committee/14/SelectedTab/Documents/Default.aspx>. These papers (and the subsequent Cabinet and County Council decisions) set out the timetable for the Plan's production, the length of the Plan period and the suggested level of sand and gravel production.

- 4.5 Appendix 2 sets out the timetable for the Minerals and Waste Development Scheme (MWDS). The process is currently expected to be completed in summer 2018 and will contain several stages of public consultation that are set out in the Statement of Community Involvement for Hertfordshire's Minerals and Waste Planning Documents (SCI) (adopted 2013).
- 4.6 The SCI is required by the Planning and Compulsory Purchase Act 2004 and sets out the process of community involvement which the County Council must follow during the preparation of local plans, taking into account the most recent changes in legislation through the Localism Act 2011 and the subsequent Town and Country Planning (Local Planning) (England) Regulations 2012.
- 4.7 The draft Initial Consultation document will form the first stage of consultation prescribed by the SCI and will be the first opportunity for all interested parties to make written representations during the review process.
- 4.8 In accordance with Part 6 of the Town and Country Planning (Local Planning) (England) Regulations 2012, interested parties must be notified of the subject of a local plan that the local authority is preparing and must be invited to make representations about what the local Plan ought to contain.
- 4.9 The draft Initial Consultation Document addresses this by allowing interested parties to make representations regarding the contents of the Minerals Local Plan before policies and sites are included in subsequent stages of consultation.

## **5. Interested Parties Event**

- 5.1 County Council officers held an Interested Parties event on 19 March 2015 to seek initial views regarding the following issues prior to development of the draft Initial Consultation document:
  1. MLP Vision and Objectives
  2. Site Selection Methodologies
  3. Sustainability Appraisal Objectives
- 5.2 The event was run alongside representatives from Land Use Consultants (LUC), an external consultancy firm selected via a tender exercise to undertake aspects of the MLP review on behalf of the County Council.
- 5.3 Sixty-two industry experts and organisations were invited to attend the event, which aimed to raise awareness that a review of the Minerals Local Plan was being undertaken, as well as giving attendees an opportunity to provide input to the Initial Consultation document.

## **6. Minerals Local Plan Vision and Objectives**

- 6.1 The new Plan will include a vision and a series of objectives which will, together, form the basis of the plan and become the guiding principles for minerals planning in the County.
- 6.2 Due to the extensive range of potential representations regarding the vision and objectives, draft versions of the vision and objectives were developed for the Interested Parties event so that those in attendance could provide preliminary comments on the content, wording and style prior to the Initial Consultation process.
- 6.3 Using feedback from the event, two new draft visions and an amended series of objectives were developed and are included in the draft Initial Consultation Document.
- 6.4 Subject to Council's agreement of the draft Initial Consultation Document, following the ten- week consultation period, it is hoped that one of the two visions can be confirmed as the final version and that the series of objectives will be finalised so that, moving forward, appropriate policies can be developed based on the objectives, as required by policy.

## **7. Site Selection Methodologies**

- 7.1 The County Council must identify sites for future minerals extraction to ensure there is a steady and adequate supply of minerals for Hertfordshire for the duration of the next Minerals Local Plan. Additionally, the County Council must identify a series of Minerals Safeguarding Areas (MSAs)<sup>2</sup> and Minerals Consultation Areas (MCAs)<sup>3</sup> to safeguard important mineral reserves from sterilisation<sup>4</sup> by non-mineral development.
- 7.2 A series of site selection processes must be undertaken to designate sufficient land across the County for these purposes. The County Council has appointed LUC as independent consultants to develop a suitable methodology to identify sites and apply the methodology as part of the Minerals Local Plan preparation process.
- 7.3 LUC developed three site selection methodologies, for sand and gravel extraction, brick clay extraction and mineral safeguarding, and presented them at the Interested Parties event.
- 7.4 The event was used to establish whether the approaches were appropriate and whether criteria included in the methodologies were correct or if elements were missing from the process altogether.

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<sup>2</sup> Minerals Safeguarding Areas (MSAs) – 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.

<sup>3</sup> Minerals Consultation Areas (MCAs) - 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.

<sup>4</sup> Sterilisation – Non-mineral development or land-use changes occurring on mineral bearing land preventing the future extraction opportunities of the mineral resource.

7.5 Following the event, LUC developed an amended series of site selection methodologies incorporating the comments from industry. These are detailed in the Hertfordshire Minerals Local Plan Site Selection Methodologies Report, developed by LUC to be published alongside the Initial Consultation as a supporting document, with an overview of the methodologies included in the Initial Consultation as part of the ten-week consultation.

## **8. Sustainability Appraisal Objectives**

8.1 It is a legal requirement to carry out a Sustainability Appraisal (SA) during the preparation of a local Plan to appraise the social, environmental and economic effects of the Plan and to ensure that the Plan is as sustainable as possible. The SA will incorporate a Strategic Environmental Assessment (SEA) which has a greater focus upon environmental considerations.

8.2 The Sustainability Appraisal is to be carried out by independent consultants, LUC.

8.3 At this early stage of the Plan's preparation, the objectives of the SA must be confirmed so that subsequent stages of the preparation have a list of criteria to be assessed against.

8.4 At the Interested Parties event, members of industry were asked to comment on the specific wording of a series of objectives proposed by LUC and suggest new objectives if they considered there were gaps in the proposed list.

8.5 Following the event, LUC took the representations into account and developed an amended series of SA objectives that are included in the Hertfordshire Minerals Local Plan SA Scoping Report, to be published alongside the Initial Consultation as a supporting document, for consultees to make representations on as part of the ten-week consultation.

## **9. The draft Initial Consultation document**

9.1 The draft Initial Consultation document sets out the context in which it sits within the process of reviewing the Minerals Local Plan and describes the methods by which representations can be submitted. The document provides a background to the planning system and the minerals industry in the County as a preface to the issues which the County Council are seeking responses to.

9.2 As stated above, the document provides interested parties with their first opportunity to make written representations for the review of the Minerals Local Plan and an opportunity to make representations on the proposed content of the Plan.

9.3 The Minerals Local Plan will be subject to a number of consultations during the review. These are shown in Table 1.

Table 1

Proposed Stages of Consultation for Minerals Local Plan		
Summer	2015	Initial Consultation
Autumn	2016	Draft Plan
Summer	2017	Submission to secretary of state

9.4 Specific sections contained within the document are summarised below:

Chapter 1: Introduction sets out the contents of the document, introducing the County Council as the Minerals Planning Authority for Hertfordshire and the need to review the existing Minerals Local Plan.

9.5 Chapter 2: Background provides a description of the UK planning system and explains why the Minerals Local Plan is included in the development plan for Hertfordshire. The reasons for reviewing the Minerals Local Plan are stated and the process that the review will follow is outlined.

9.7 Chapter 3: Minerals in Hertfordshire gives an overview of the minerals found and worked in Hertfordshire, the levels of sales in the County and the projected increase in demand for the foreseeable future.

9.8 Chapter 4-5: Vision and Objectives contains the draft visions and objectives that have been prepared taking into account the representations made by members of industry at the Interested Parties event held on 19 March 2015. County Council are seeking views on the aspects of national and Hertfordshire County Council policy that are covered adequately in the visions, as well as a preferred style of vision and whether meeting the draft objectives will ensure that the vision for Hertfordshire is achieved.

9.9 Chapter 6: Plan Length describes the two most appropriate durations that the County Council could select as the length of the Plan. The first of the options was set out to the Community Safety and Planning Cabinet Panel on 03 November 2014 as the preferred approach of the County Council. It was acknowledged at the time that the issue would be subject to public consultation at a later stage of the Plan's production. The Initial Consultation seeks confirmation that consultees agree with this approach.

9.10 Chapter 7: Quantity of Sand and Gravel Provision describes the two most appropriate quantities that the County Council could specify as constituting a steady and adequate supply of sand and gravel for Hertfordshire. The first of the options was set out to the Community Safety and Planning Cabinet Panel on 03 November 2014 as the preferred approach of the County Council. It was acknowledged at the time that the issue would be subject to public consultation at a later stage of plan production. The Initial Consultation seeks confirmation that consultees agree with this approach.

9.11 Chapter 8: Site Selection for Sand and Gravel Extraction gives an overview of the methodology to identify suitable sites for sand and gravel extraction

proposed by LUC taking account of feedback from the Interested Parties event. Readers are referred to the Hertfordshire Minerals Local Plan Site Selection Methodology Report, developed by LUC and published as a supporting document, for full details of the proposed methodology before being asked whether individual aspects of the methodology are appropriate.

- 9.12 Chapter 9: Minerals Sterilisation and Windfall Sites states the requirement to designate Minerals Safeguarding Areas and Minerals Consultation Areas and asks for representations regarding how the safeguarding areas should be included within the policy of the Plan. Additionally, the chapter seeks confirmation that the Plan should continue to use the formal consultation process described in the Mineral Consultation Areas in Hertfordshire Supplementary Planning Document (adopted 2008) to determine whether the County Council is consulted by district/borough councils regarding issues of non-mineral development.
- 9.13 Chapter 10: Minerals Safeguarding Areas and Minerals Consultation Areas Site Selection describes the methodology proposed by LUC following the Interested Parties event to identify the required Minerals Safeguarding Areas and Minerals Consultation Areas for inclusion in the Plan. Readers are asked whether they consider the methodology appropriate.
- 9.14 Chapter 11: Clay describes the requirement to provide a steady and adequate supply of industrial minerals by providing a stock of permitted reserves of at least 25 years for brick clay and seeks public opinion on the best way that the County can offset its current shortfall to meet this requirement.
- 9.15 Chapter 12: Chalk explains that because of the end-use of chalk extracted in Hertfordshire, the County is not obliged to maintain a supply. The chapter therefore seeks opinion regarding the level of protection the Plan should offer to chalk resources and how the Plan should promote the extraction of chalk.
- 9.16 Chapter 13: Secondary and Recycled Aggregate describes how the topic of secondary and recycled aggregates requires inclusion in the Minerals Local Plan as well as in the Waste Local Plan. The chapter seeks representations regarding how the Plan should support the production of alternatives to land-won minerals and, therefore, how it should complement the Waste Local Plan. The chapter also asks consultees whether they believe the Plan should encourage the installation of secondary and recycled aggregate facilities at existing minerals sites.
- 9.17 Chapter 14: Policies provides an overview of the findings of an internal audit of the policies in the existing Minerals Local Plan and presents a proposed list of headings for policies to be included in the draft Plan. The content of the policies does not need finalising at this stage but the Initial Consultation seeks opinion on the range of proposed policies and whether any additional topics should be included.
- 9.18 Chapter 15: Sustainability Appraisal contains the headline objectives of the Sustainability Appraisal, proposed by LUC taking account of feedback from the Interested Parties event. Readers are referred to the Hertfordshire

Minerals Local Plan SA Draft Scoping Report, developed by LUC and published as a supporting document, for full details of the appraisal but are asked to comment on the appropriateness of the headline objectives as a framework to determine the sustainability of the Minerals Local Plan.

- 9.19 Chapter 16: Summary reiterates the methods by which representations can be made and the dates of the consultation period.

## **10. Next Steps**

- 10.1 Following approval from Cabinet and County Council, the public consultation on the Minerals Local Plan review draft Initial Consultation document (including the proposed site selection methodology) will be undertaken in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012. The consultation on the document will be for at least ten weeks, commencing in August.
- 10.2 The outcomes of the Initial Consultation will be presented to the Environment, Planning & Transport Cabinet Panel in winter 2015. In addition to any sites identified by applying the proposed methodology, operators and land owners will be asked to put forward their own sites as part of a Call for Sites. The Cabinet Panel will be requested to consider the revised methodology prior to seeking approval for this Call for Sites.
- 10.3 Following the consultation period, the review process will follow the timetable outlined in the MWDS, taking account of the SCI. It is anticipated that a draft Minerals Local Plan, incorporating results from the Call for Sites process, will be presented to Members prior to public consultation in time for autumn 2016.

## **11. Financial Implications**

- 11.1 The cost of producing the Minerals Local Plan review draft Initial Consultation document (printing, distribution, adverts etc) is included in existing budgets. There is also an existing budget for employing consultants to carry out the required Strategic Environmental Assessment/Sustainability Appraisal.

## **12. Equalities Implications**

- 12.1 When considering proposals placed before Members it is important that they are fully aware of, and have themselves rigorously considered the equality implications of the decision that they are making.
- 12.2 Rigorous consideration will ensure proper appreciation of any potential impact of that decision on the County Council's statutory obligations under the Public Sector Equality Duty. As a minimum this requires decision makers to read and carefully consider the content of the Hertfordshire Minerals Local Plan Review Equality Impact Assessment (Appendix 3 to this report) produced by officers.



- 12.3 The Equality Act 2010 requires the County Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics under the Equality Act 2010 are age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief, sex and sexual orientation
- 12.4 The Minerals Local Plan review EqIA, attached as Appendix 3 to the report, concludes that potential equality impacts may arise during stakeholder events and consultations and proposes a range of mitigations to minimise the potential impacts (section 8 of the EqIA).

### Background Information

Planning and Compulsory Purchase Act (2004),  
[http://www.legislation.gov.uk/ukpga/2004/5/pdfs/ukpga\\_20040005\\_en.pdf](http://www.legislation.gov.uk/ukpga/2004/5/pdfs/ukpga_20040005_en.pdf)  
 Localism Act (2011),  
[http://www.legislation.gov.uk/ukpga/2011/20/pdfs/ukpga\\_20110020\\_en.pdf](http://www.legislation.gov.uk/ukpga/2011/20/pdfs/ukpga_20110020_en.pdf)  
 Town and Country Planning (Local Planning) (England) Regulations 2012,  
[http://www.legislation.gov.uk/uksi/2012/767/pdfs/uksi\\_20120767\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/767/pdfs/uksi_20120767_en.pdf)  
 The National Planning Policy Framework (2012), DCLG,  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)  
 Minerals Local Plan Review 2002-2016 (adopted March 2007),  
<http://www.hertsdirect.org/infobase/docs/pdfstore/mlpradoptionmarch2007.pdf>  
 Mineral Consultation Areas in Hertfordshire Supplementary Planning Document (Adopted 2008)  
<http://www.hertsdirect.org/docs/pdf/m/mcaspd.pdf>  
 Statement of Community Involvement (adopted 2013),  
<http://www.hertsdirect.org/docs/pdf/s/scifin>  
 Minerals and Waste Development Scheme (adopted November 2014),  
<http://www.hertsdirect.org/docs/pdf/m/mwdsn2014.pdf>  
 Hertfordshire Minerals Local Plan Site Selection Methodologies Report – Land Use Consultants  
 Hertfordshire Minerals Local Plan SA Scoping Report – Land Use Consultant Report to the Environment, Planning & Transport Cabinet Panel, 10 July 2015  
 Community Safety and Planning Cabinet Panel considered the proposed way forward for the proposed way forward for the Minerals Local Plan review in November 2014, papers may be viewed at:  
<https://cmis.hertsdirect.org/hertfordshire/Calendarofcouncilmeetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/52/Committee/14/SelectedTab/Documents/Default.aspx>