

HERTFORDSHIRE COUNTY COUNCIL

**ENVIRONMENT, PLANNING & TRANSPORT
CABINET PANEL**

TUESDAY, 02 FEBRUARY 2016, AT 10:00 AM

Agenda Item No.

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**MINERALS LOCAL PLAN REVIEW, SUMMARY OF REPRESENTATIONS MADE
TO THE INITIAL CONSULTATION**

Report of the Chief Executive and Director of Environment

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Note This panel paper relates to one other report on this agenda: “Implementation of the Site Selection Methodology and to undertake the call for sites for the Minerals Local Plan review”, which describes the Site Selection Methodology to be used to identify sites for inclusion in the Minerals Local Plan review to maintain a steady and adequate supply of minerals for Hertfordshire.

1. Purpose of report

1.1 To present to the Cabinet Panel a summary of the representations made during the Initial Consultation for the review of the Minerals Local Plan and the officers suggested response to these representations (Appendix 1 detailed at this link – [Appendix 1 – Summary of Representations to the Hertfordshire Minerals Local Plan Initial Consultation 2015](#) : A hard copy of this appendix is available for Members in the Members’ Lounge; a copy will also be available at the meeting for Members to refer to if they wish. If any Member wishes to receive a hard copy, please contact Theresa Baker on telephone number 01992 556545 or by email to Theresa.baker@hertfordshire.gov.uk).

2. Summary

2.1 As Minerals Planning Authority for Hertfordshire, the County Council has a statutory responsibility to prepare, implement and review a Minerals Local Plan in line with national policy and regulations¹.

2.2 Hertfordshire County Council is in the early stages of a review process. The outcome of the completed review will be the adoption of a new Minerals Local Plan that will replace the existing Minerals Local Plan, adopted in 2007, as part of the Development Plan² for Hertfordshire.

¹ The main considerations are the National Planning Policy Framework (NPPF) (2012), the Localism Act (2011), the Planning and Compulsory Purchase Act (2004) and the Town and Country Planning Act (1990) as amended.

² The Development Plan for Hertfordshire consists of the 10 District & Borough Local Plans, the Minerals Local Plan, the Waste Local Plan and adopted Neighbourhood Plans

- 2.3 The first formal stage of consultation prescribed by legislation and set out in the adopted Statement of Community Involvement (SCI)³ is an Initial Consultation. The purpose of an Initial Consultation is to seek views from interested parties on the subject of the planning document being prepared and to invite representations to be made regarding the contents of the future plan.
- 2.4 The County Council developed an Initial Consultation document which was subject to a ten week period of consultation from 03 August until 16 October 2015. The document contained 25 issues related to the contents of the emerging plan, for which consultees could select their preferred option/s from a suggested list and provide reasoning for their selection or alternative suggestions. One issue allowed consultees to provide comments on topics they believed pertinent to the Minerals Local Plan but not covered by the Initial Consultation document.
- 2.5 A total of 58 consultees responded, making 347 representations between them. This equated to 616 comments on the issues of the consultation document. An overview of the main themes of the representations for each chapter is included within this report.
- 2.6 In addition, a summary of all the representations and the County Council's responses to them are listed in a series of tables in Appendix 1 which can be found at [Appendix 1 – Summary of Representations to the Hertfordshire Minerals Local Plan Initial Consultation 2015](#). A general statement is included for each issue, summarising the main themes of the representations and the Council's response. A bespoke response has been included for the other representations which raised points in addition to the main themes.
- 2.7 The County Council will take into account all representations in the preparation of the draft Minerals Local Plan.

3. Recommendation

- 3.1 That the Panel notes and endorses the schedule of representations to the consultation and the County Council's suggested response to them (Appendix 1 to the report).

4. Background to the Minerals Local Plan Initial Consultation document

- 4.1 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.
- 4.2 The Initial Consultation document addressed this by allowing interested parties to make representations regarding the contents of the Minerals Local

³ This Statement of Community Involvement takes into account the most recent changes in legislation through the Localism Act 2011 and subsequent Town and Country Planning (Local Planning) (England) Regulations 2012.

Plan at an early stage of the review process, before policies are drafted and sites are identified in subsequent consultation stages.

- 4.3 The document provided a background to minerals planning in Hertfordshire before focussing on individual topics, organised by chapter, in sufficient detail for consultees to understand the subject and give their views on the issues identified in the document.
- 4.4 The document contained 25 issues, the first 24 of which were presented with a number of options together with an opportunity to provide reasoning for the selection or any additional comments related to the issue.
- 4.5 The issues covered a broad range of topics including draft versions of the Plan Vision and Objectives, options for key strategic issues such as the quantity of mineral that the County Council should plan for, draft methodologies to identify sites for potential mineral extraction and safeguarding, and alternatives for non-compulsory items the adopted Plan could include. Each topic will be discussed in further detail, including a summary of the representations made and proposed Hertfordshire County Council responses, in section 6.
- 4.6 Consultees could also provide additional comments on topics they thought important for the emerging Plan that were not covered by the Initial Consultation document.

5. Sustainability Appraisal and Strategic Environmental Assessment

- 5.1 Land Use Consultants (LUC) were appointed to undertake the required Sustainability Appraisal of the Minerals Local Plan review.
- 5.2 Following feedback at the Interested Parties event on 19 March 2015, LUC produced a Sustainability Appraisal (SA) scoping report. This incorporates a Strategic Environmental Assessment (SEA) which details how the Minerals Local Plan review process will be assessed in relation to environmental, social and economic issues.
- 5.3 Whilst there are only three statutory consultees for the Sustainability Appraisal, the headline objectives of the appraisal framework were included in the Initial Consultation document to ensure that a wider audience could be consulted and have input on the final appraisal process. The full scoping report was published as a supporting document to the consultation and the statutory consultees were asked to provide their representations as part of the Initial Consultation. In addition, LUC undertook an SA/SEA Appraisal of the options included in the Initial Consultation document.
- 5.4 The representations made regarding the scoping report are included in the summary table (Appendix 1) with The County Council responses. The representations have been forwarded to LUC to be incorporated into the Sustainability Appraisal framework to be used for the remainder of the Plan review.

6. Summary of Main Representations and Hertfordshire County Council Actions

- 6.1 A brief summary of the main representations made and Hertfordshire County Council responses are shown below, organised by chapter.

Vision

- 6.2 Preferences between the two alternative visions included in the document were roughly split, with members of industry preferring the emphasis on the requirements of the National Planning Policy Framework (NPPF) in Vision 1 and those more interested in the impact on landscape and character perceiving Vision 2 to have more of a focus on these aspects.
- 6.3 Along with a few minor amendments to terminology, it is therefore proposed that the vision to be included in the draft Plan will be a merged version of Visions 1 and 2. The content and language of Vision 1 will be combined with the shorter paragraphs and slightly re-ordered Vision 2. The timescale specified at the start of the vision will be amended to match the Plan period (which was not confirmed at the time of the Initial Consultation publication) rather than the period to 2040 as in Vision 2.

Objectives

- 6.4 The main concern of the consultation is to ensure that all aspects of the reworded vision are incorporated into the list of objectives. Ideally, this should not require an increase in the number of objectives, nor the significant lengthening of individual objectives. There were requests for additional detail to be included in a number of objectives, however it is considered that this detail can be reflected in the policies and supporting text. Potential merges of objectives were suggested and may be incorporated when reviewed against the new vision, as will some minor amendments to terminology.

Plan Length

- 6.5 There was overwhelming support for the use of a 15 year Plan, specified as the preferable plan length by the NPPF, with only two suggestions to use other time periods.
- 6.6 The majority of support for a 15-year plan incorporated support for the identification of 22 years' sand and gravel supply so that a 7-year landbank can be maintained at all times up to the end of the Plan. This is also a requirement of the NPPF. It was suggested by a small proportion of consultees that future reviews of the Plan could be used to identify the extra supply as an alternative to identifying a 22-year supply at the outset of the plan. However, given the requirements set out in the NPPF and taking account of the representations, it is proposed that the additional 7 years' supply will be identified in the Plan. This will provide more certainty to Local Planning Authorities over the long term designation of land-use.

Quantity of Sand and Gravel Provision

- 6.7 Approximately two-thirds of responses supported the use of the East of England Aggregate Working Party (EEAWP) apportionment figure of 1.39

million tonnes per year as the figure on which to base future sand and gravel supply. Members of the EEAWP have agreed as a group to use apportionment figures. They are considered a more realistic estimate of future minerals demand for the East of England than historical average sales when considering the growth agenda promoted by Government, the housing currently being planned for in Local Planning Authority Local Plans and the relatively low output of housing and infrastructure during the past decade of recession. Therefore, it is proposed to use 1.39 million tonnes per year as a suitable basis for the draft Plan.

- 6.8 However, the NPPF states that Local Aggregate Assessments⁴ should be based on a rolling average of 10-year sales data and other relevant local information. The relevant local information will need to be presented during the development of the Plan to justify the use of the apportionment figure rather than the 10-year average sales figure in the Plan.

Sterilisation and Windfall Sites

- 6.9 Representations suggest the draft Plan should contain two separate policies related to the prevention of minerals sterilisation. One policy would identify the extent of Minerals Safeguarding Areas and Minerals Consultation Areas. It would also set the thresholds for proposed developments, on which the County Council as the minerals planning authority, must be consulted by district/borough councils. The second policy would encourage the prior extraction of minerals for appropriate non-mineral developments where reserves of minerals could be used onsite by the development and would otherwise be sterilised.

- 6.10 The existing Minerals Consultation Areas in the Hertfordshire Supplementary Planning Document could be incorporated into the first policy, though the contents of this document would need to be reviewed prior to being amalgamated into the draft Plan.

- 6.11 The issue of how to incorporate windfall sites into the Plan received a split response. The slightly favoured option was to incorporate windfalls sites into a policy related to mineral extraction applications outside of Specific Sites and Preferred Areas. Therefore, it is proposed to strengthen the wording of Minerals Policy 4 from the existing Minerals Local Plan to implement this.

Minerals Safeguarding Areas and Minerals Consultation Areas

- 6.12 The proposed selection methodology for Minerals Safeguarding Areas and Minerals Consultation Areas, which follows national guidance closely, was considered an appropriate methodology to use. The methodology will use British Geological Survey (BGS) digital resource information to outline the extent of Safeguarding Areas for sand and gravel, clay and chalk resources around the county. This will be included and consulted on as part of the draft Minerals Local Plan in autumn 2016.

⁴ The Local Aggregate Assessment is the Minerals Planning Authority's annually updated monitoring report and should be a key document to be used to plan for a steady and adequate supply of aggregates.

Clay

- 6.13 The Initial Consultation received equal support for the three suggested options to encourage the extraction of brick clay to meet the requirement of the NPPF to have 25 years' worth of permitted reserves.
- 6.14 It is therefore proposed that the Plan will contain a general policy to promote extraction of clay where it can be demonstrated that the level of permitted reserves is insufficient to maintain brick clay production for 25 years. To ensure additional flexibility, Minerals Safeguarding Areas and Minerals Consultation Areas will be identified to prevent the sterilisation of clay reserves by non-minerals development, as required by the NPPF.

Chalk

- 6.15 As the county does not have a cement works to maintain, there is no requirement in the NPPF to safeguard chalk reserves or promote the extraction of chalk in Hertfordshire. However, responses to the consultation document contained support for the protection of the mineral. It is therefore considered appropriate to protect chalk reserves and the existing extraction operations to ensure the on-going supply of chalk, and to prevent unnecessary sterilisation of mineral reserves by non-mineral development.
- 6.16 The Plan could aim to do this by including a policy to safeguard existing extraction operations and by designating Minerals Safeguarding Areas and Mineral Consultation Areas to protect chalk reserves. The extent of these areas will be consulted on in the draft Minerals Local Plan in autumn 2016.

Secondary and Recycled Aggregate

- 6.17 Responses to the consultation gave overwhelming backing for the Plan to continue to support the production of secondary and recycled aggregates for use as an alternative to primary, land-won minerals. Whilst there was a varied response to how this should be done, it is proposed to strengthen the policy wording and supporting text of the existing Minerals Local Plan, and make a clear reference to the overlap this issue has with the Waste Local Plan.
- 6.18 Further work will be undertaken to determine any additional requirements for inclusion in the draft Plan.

Policies used to Determine Applications

- 6.19 There was a general consensus that the two lists of policy headings contained the necessary topics related to minerals planning.
- 6.20 Several comments were received stating that pairs of policies could be merged but there are also legitimate reasons for the County Council to keep the policies separate for all of the suggested cases. There were also comments related to topics that might have been omitted, but in all cases the suggested topics are due to be included as part of the policies listed so additional policies are not required. It was not always clear where a particular topic would be included, consequently the policy headings will be reviewed to ensure clarity in the draft Minerals Local Plan.

- 6.21 The two lists of policies may be grouped together in the final Plan, though this decision will be based on the layout and clarity of the document together with policy considerations. Policy wording will be included and consulted on as part of the draft Minerals Local Plan in autumn 2016.

Sustainability Appraisal

- 6.22 In general, the headline objectives of the Land Use Consultants (LUC) Sustainability Appraisal scoping report are considered to be appropriate to determine the sustainability of the Plan review. However, comments were submitted regarding several technical aspects of the report, including clarity and consistency of the use of terminology, which will be addressed.
- 6.23 Hertfordshire County Council officer comments have been included in Appendix 1 and have been forwarded to LUC who will continue to appraise the review of the Plan. The appraisal will use the framework set out in the scoping report, as amended following this consultation.

Additional Comments

- 6.24 Issue 25 was included to provide consultees with an opportunity to raise any matters they thought had not been covered by the rest of the consultation.
- 6.25 Some consultees used this opportunity to re-iterate a point they had made earlier in the response form, and some consultees used it to provide examples of guidance that should be referred to in the development of the draft Plan. Additionally, many comments were made that relate to site selection and the content of policies. The comments had therefore already been responded to within other chapters, although the suggested guidance documents have been noted and will be reviewed as policies and supporting text are drafted.

7. Next Steps

- 7.1 The responses to the representations will be taken into account in the development of a draft Minerals Local Plan which will be subject to a separate period of consultation currently planned for autumn 2016. The draft Minerals Local Plan will contain sites for mineral extraction, identified by implementing the site selection methodology presented in the following report on this agenda, and policy wording and supporting text to be used when determining planning applications for minerals extraction in the county.

8. Financial Implications

- 8.1 The costs of producing the Minerals Local Plan, (printing, distribution, adverts etc) and employing consultants to carry out the required Site Selection and Sustainability Appraisal are included in existing budgets.

9. Equality Impact Assessment (EqIA)

- 9.1 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.

- 9.2 Rigorous consideration will ensure that 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 any Equalities Impact Assessment (EqIA) produced by officers.
- 9.3 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.
- 9.4 The Minerals Local Plan review EqIA concludes that potential equality impacts may arise during stakeholder events and consultations and proposes a range of reasonable mitigations to minimise the potential impacts. It is not anticipated that people with protected characteristics will be affected disproportionately by the publishing of responses set out in the report and Appendix 1. The EqIA will be reviewed at each work phase and at each consultation.

Appendix 1 – Summary of Representations to the Initial Consultation available at this link: [Appendix 1 – Summary of Representations to the Hertfordshire Minerals Local Plan Initial Consultation 2015](#)

Background documents referred to and used in writing this report:

Hertfordshire Minerals Local Plan Initial Consultation document (August 2015),
<http://www.hertsdirect.org/docs/pdf/h/18857322/hertsminlocplninitcons.pdf>

Hertfordshire Minerals Local plan Sustainability Appraisal and Strategic / environmental Assessment Scoping Report (June 2015),
<http://www.hertsdirect.org/docs/pdf/h/18857322/luchertminlocplansustappscoprep.pdf>

Habitats Regulations Assessment of the Hertfordshire minerals Local Plan Scoping Report (June 2015),
<http://www.hertsdirect.org/docs/pdf/h/18857322/luchertsminlocplanhrascoprep.pdf>

Hertfordshire Minerals Local Plan Review 2002-2016 (adopted March 2007),
<http://www.hertsdirect.org/infobase/docs/pdfstore/mlpradoptionmarch2007.pdf>

Waste Core Strategy and Development Management Policies document (adopted November 2012), <http://www.hertsdirect.org/docs/pdf/w/twcsadmpd.pdf>

Waste Site Allocations document (adopted July 2014),
<http://www.hertsdirect.org/docs/pdf/w/wsaalldoc.pdf>

Minerals and Waste Development Scheme (adopted November 2014),
<http://www.hertsdirect.org/services/envplan/plan/hccdevplan/mwds/>

Equality Impact Assessment (EqIA) – Hertfordshire Minerals Local Plan
<http://www.hertsdirect.org/docs/pdf/m/eqiahmlp.pdf>

The National Planning Policy Framework (2012), DCLG
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

Town and Country Planning (Local Planning) (England) Regulations 2012
http://www.legislation.gov.uk/uksi/2012/767/pdfs/uksi_20120767_en.pdf