

HERTFORDSHIRE COUNTY COUNCIL

**CABINET
MONDAY 8 SEPTEMBER 2003 AT 2:00 P.M.**

**COUNTY COUNCIL
TUESDAY 16 SEPTEMBER 2003 AT 10:30 A.M.**

Agenda Item No. Cabinet 4 County Council 6

**MINERALS LOCAL PLAN REVIEW TO 2016
2nd DEPOSIT DRAFT FOR PUBLIC CONSULTATION**

Report of the Director of Environment

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Executive Member Derrick Ashley

1. Purpose of Report

To seek approval for the Minerals Local Plan Review 2nd Deposit Draft in light of the representations made to the 1st Deposit Draft, the public consultation arrangements and the overall timetable for progressing the Review.

2. Summary

2.1 The Minerals Local Plan, adopted in July 1998, forms part of the Development Plan for Hertfordshire, guiding how and where mineral extraction should take place in the county. Government advice is that plans should be reviewed at least every five years and the adopted Plan includes a commitment for any review of the Plan to include an evaluation of all resources from which areas for future working will be identified.

2.2 The 1st Deposit Draft was approved by Cabinet and County Council in September 2002 following a comprehensive site evaluation process, together with a review of all the policies in the Plan to identify gaps and the areas that the Plan needed to take into account as part of the Review. The 2nd Deposit Draft incorporates amendments that have been recommended by the Aggregates Panel in response to representations made as a result of the public consultation on the 1st Deposit Draft.

2.3 The Hertfordshire Minerals Local Plan Review is being progressed under the existing Development Plan process, however proposed

changes to the planning system outlined in the postponed Planning and Compulsory Purchase Bill have been taken into account. The Plan draws together strategic and operational policies, with much of the latter adopting a criteria based approach. This is supported by draft Supplementary Planning Guidance (SPG) to explain in greater depth how many of the policies would be implemented, but which is not part of the Development Plan.

- 2.4 Uncertainty around Government advice as to how much primary land-won aggregate (sand and gravel in Hertfordshire's case) needs to be planned for has also been an issue for the Plan Review. The national and regional guidelines for aggregate provision in England 2001-2016 (MPG6) have now been published and the new figure for the East of England is to make provision for 256 million tonnes of land-won sand and gravel. The East of England regional Aggregates Working Party is currently considering its recommendations as to how this could be apportioned between the mineral planning authorities in the region.
- 2.5 The Plan was progressed on the basis of testing three supply scenarios (high, medium and low), ranging from the current apportionment figure (high) to the average of the last three years sales (low). Given that the overall figure for the region has been reduced, the Plan is robust enough to accommodate to accommodate an apportionment based on the low-to-medium estimates.
- 2.6 The First Deposit Draft of the Minerals Local Plan review identified three preferred areas for possible future gravel extraction. These three preferred areas (land north of Hertford, land at British Aerospace, Hatfield and land at Coursers Road, near London Colney) remain the same in the Second Deposit Draft, however slight amendments have been made to the site boundaries following representations made at the consultation.

3. Outcome of the 1st Deposit Draft consultation

- 3.1 Three hundred and forty individuals made representation to the Hertfordshire Minerals Local Plan Review at the First Deposit stage and these are attached at Appendix 1. There are a number of common objections and in order to deal with these fully, the Aggregates panel have recommended two more detailed responses, which are attached at Appendix 2. Where the Aggregates Panel have recommended that changes to the Review be accepted these are indicated in the table and are shown in detail in the 2nd Deposit Draft attached at Appendix 3. The proposed changes have been the subject of a further strategic environmental/sustainability appraisal.

4. Conclusion

Cabinet is asked to recommend that the County Council approve the Minerals Local Plan Review 2nd Deposit Draft as set out in Appendix 3

and its progression through the next stages of the development plan process in terms of the consultation process and timetable.

1. Background to the Review of the Minerals Local Plan

- 1.1 Hertfordshire has only a limited range of indigenous minerals – predominantly sand and gravel (aggregates), which mainly underlies the southern half of the county and is used for construction. Non-aggregate minerals in the county comprise limited pockets of brickclay, used for the manufacture of specialist bricks, in the extreme west of the county and pockets of chalk, used for agricultural lime, which are found in the west, north and east of the county.
- 1.2 The Minerals Local Plan forms part of the Development Plan for Hertfordshire (together with the Structure Plan, the Waste Local Plan and District Local Plans), guiding where and how future mineral extraction should take place. The County Council's first Minerals Local Plan was adopted in July 1998, after a very lengthy process, which started in 1991.
- 1.3 The Minerals Local Plan is a statutory document produced and adopted by the County Council, setting out the policies relating to the extraction of minerals in the county.
- 1.4 Development Plans should be up-to-date and relevant and Government policy is that development plans should be reviewed at least every 5 years. In his report following the Minerals Local Plan Inquiry into the now adopted Minerals Local Plan, the Inspector emphasised this requirement and recommended that the current Plan include a commitment to an early evaluation of those resources from which further areas for future working will be identified, demonstrating that all the costs and benefits of working these resources have been evaluated and compared. This recommendation was adopted and the current Mineral Local Plan indicates that the first review would commence within 12 month's of the Plan's adoption (para 2.4.39).

2. Review process

- 2.1 Work on the Review of the Minerals Local Plan commenced almost immediately after its adoption. One important aspect of the Review, and in line with the Inspector's recommendation referred to in para 1.4 above, is the identification of sites from where the future provision of aggregates would come. The first step, therefore, was to approve a Framework for Site Selection Strategy (Environment Committee - October 1998) after a period of stakeholder consultation including local interest groups. This Framework set out how the County Council would go about identifying sites for inclusion in the Review of the Plan to meet

the future needs of Hertfordshire and the County Council's commitment to meeting regional need.

2.2 In addition, the adopted Plan was 'scoped' to identify any shortcomings against government and other guidance to identify the areas that any Review of the Plan would need to address.

2.3 The Review of the Plan has therefore included the following steps:

- a desk top evaluation of the aggregate resources in the county to identify economically viable resource blocks, including discussions with operators and key landowners;
- testing these blocks against an initial series of environmental and other constraints (known as "sieving") to identify areas suitable for further investigation as potential sites for aggregate extraction;
- a consultation exercise between October 2001 and January 2002 on a wide range of key issues relevant to the Plan Review, including seeking views on 21 (from an original list of 35) potential locations for future extraction;
- consideration of the responses to the Key Issues consultation, including an Open Panel Meeting in April 2002, to enable respondents to present their views to the Panel;
- after taking into account the consultation responses, further consideration of the 21 potential locations against a set of sustainability criteria and carrying out a comparative evaluation of the sites to identify those which represent the most sustainable for future extraction;
- consideration of the strategic issues to be taken into account when developing the Minerals Local Plan Review aims and policies;
- testing the supply policy against three different scenarios to help identify how much provision the Review should include (and in turn, how many sites should be identified to meet that provision);
- preparation of draft policies for the Review which have then been the subject of a Strategic Environmental Appraisal, and modified in light of that Appraisal;
- publication of the 1st Deposit Draft for a 10 week public consultation period from 7 October 2002 to 16 December 2002, seeking formal representation to the Plan's proposals and policies;
- consideration of the responses to the 1st Deposit Draft;
- preparation of the 2nd Deposit Draft, taking into account all representations made at the 1st Deposit stage and a further Strategic Environmental Appraisal (attached at Appendix 3).

3. Outcome of the First Deposit Draft Consultations

- 3.1 The consultation process for the First Deposit Draft was approved by Cabinet and County Council in September 2002 and proceeded in accordance with those recommendations and the guidance set out in PPG12. The Plan was placed 'on deposit' for a period of ten weeks between 7 October and 16 December 2002 and was available for public inspection at all council offices (district and county) and libraries. A copy of the Plan was sent to all statutory consultees (as listed in PPG12), all parish councils, and to all those who had expressed an interest at the Key Issues stage. A copy was also available on HertsDirect, the County Council's website.
- 3.2 Formal notices of deposit were placed in all local papers and in the London Gazette for two consecutive weeks. An article was included in HertsDirect news, which is delivered to all households in the County. Site notices were also placed at vantage points on the three preferred areas and all households within one hundred metres of the preferred areas received formal notification of the Minerals Local Plan proposals for preferred area status.
- 3.3 Three hundred and forty individuals made representation to the Hertfordshire Minerals Local Plan Review at the First Deposit stage and a summary of the representations is attached at Appendix 1 to this report, together with suggested County Council responses. The Aggregates Panel has considered all of the representations and the suggested responses reflect the Panel's advice.
- 3.4 There are a number of common objections and in order to deal with these fully, the Aggregates panel have recommended two more detailed responses, which are attached at Appendix 2. Where the Aggregates Panel have recommended that changes to the Review be accepted, these are indicated in the table and shown in detail in Appendix 3.
- 3.5 'General Response No. 1' covers objections relating to the site selection process, impacts on property values, specific site boundaries, the Plan period, consideration of responses, conflict of Policies, the consultation process and the possibility of landfill.
- 3.6 'General Response No. 2' covers the issue of the amount of sand and gravel the Hertfordshire Minerals Local Plan review should provide for. Due to uncertainty with the review of Government guidance on provision for aggregate supply (MPG6) three scenarios were used to test out implications for the Plan in terms of how many sites would need to be identified for aggregates supply.
- 3.7 Uncertainty around Government advice as to how much primary land-won aggregate (sand and gravel in Hertfordshire's case) needs to be planned for has also been an issue when reviewing the Plan. The

national and regional guidelines for aggregate provision in England 2001-2016 (MPG6) have now been published and the new figure for the East of England is to make provision for 256 million tonnes of land-won sand and gravel. The East of England Regional Aggregates Working Party is currently considering its recommendations as to how this could be apportioned between the mineral planning authorities in the region.

- 3.8 The Plan was progressed on the basis of testing three supply scenarios (high, medium and low), ranging from the current apportionment figure (high) to the average of the last three years sales (low). In terms of identifying preferred areas, the Review based its assumptions on the lowest scenario, but in practice, because of the Council's decision not to rely on a single site, it can also meet the existing apportionment at least during the Plan period. However, the Review needs to demonstrate how a seven year landbank of permissions would be maintained at the end of the Plan period and there is greater uncertainty for this period if the county's apportionment were to be unchanged. However, this is highly unlikely given that the overall figure for the region has been reduced and the Plan is robust enough to accommodate to accommodate an apportionment based on the low- to-medium scenarios. It is unlikely that a significantly higher figure would be apportioned for Hertfordshire as preliminary work on options for apportioning the figure suggest that it would not exceed that of the medium scenario.
- 3.9 The First Deposit Draft of the Minerals Local Plan review identified three preferred areas for possible future gravel extraction (land north of Hertford, land at British Aerospace, Hatfield and land at Coursers Road, near London Colney). The preferred areas for the 2nd Deposit Draft remain the same, with slight modifications made to the boundaries to give greater protection to local amenity and areas of specific interest.
- 3.10 The Strategic Environmental Assessment/Sustainability Appraisal of the 2nd Deposit Draft has:
- tested the appraisal process used for the Review against the Government's draft Guidance on the Strategic Environmental Assessment Directive;
 - updated the scoping exercise to take account of new guidance issued since the first appraisal (Minerals Policy Statement 2 and the Review of MPG6);
 - appraised the revised policies as proposed in the 2nd Deposit Draft of the Minerals Local Plan Review.
- 3.11 The appraisal has concluded that, generally, the proposed modifications to the policies and supporting text provide clarification or strengthen the Plan in terms of protection of the environment, ensuring the most appropriate and effective restoration and afteruse is achieved and protecting the amenity of local residents and communities.

3.12 The appraisal highlights three points of uncertainty.

- (i) The effect of changing para 3.2.1 of the Plan to “there should be ~~a total of~~ at least 16.8 million tonnes” could lead to higher levels of extraction than what is required in the landbank, particularly as MPG6 is likely to lead to a reduced figure. However this change reflects Government guidance in MPG6. It is not intended to suggest that there is no upper limit on what could be provided, but that it should be in the order of, but at least the regional apportionment figure. However it does highlight that the text of the Plan needs to be updated to reflect the new national guidance, although the specific figure for the county has not yet been agreed and is unlikely to be so before December. These changes have been incorporated in the Plan.
- (ii) The Plan is potentially weakened against short term effects on environmental capital by qualifying adverse effects on environmental capital as being important only if they are permanent (para 4.8.3). However it does provide some flexibility for extraction to take place subject to mitigation of short term effects and not resulting in any permanent adverse effects on the environment. This modification was at the recommendation of the Government Office for the East of England and is considered to offer a balanced approach.
- (iii) The new criterion xiv) in Minerals Policy 18 may potentially conflict with the objective to create new habitats/wildlife sites. However, a balance needs to be struck between these objectives and issues of air safety.

4. Format of the Plan

4.1 As indicated in para 2.2 above, the adopted Plan has been scoped to identify any gaps, areas that need updating in light of changes to guidance or best practice, or policies that are redundant. The overall preparation of the Plan Review has also been mindful of the Government’s intentions to modernise planning and proposals put forward in the Planning and Compulsory Purchase Bill.

4.2 The Bill includes provisions to replace Minerals Local Plans with Minerals Development Documents, however the proposed Planning Bill has now been postponed. In the meantime, the Government has advised that it is vitally important that development plan preparation should continue between now and the commencement of the new legislation which it plans to introduce and it has announced transitional arrangements. It advises that many of the principles that will underpin Development Documents can be acted upon under the current system. These include a clear expression of a core strategy and more use of criteria based policies as a framework of development control.

- 4.3 Within this time of change, therefore, the Aggregates Panel recommended that this Review of the Minerals Local Plan adopts a flexible framework of strategic and operational policies with reasoned justification, supported by Supplementary Planning Guidance (SPG) to provide further clarification on policy implementation.
- 4.4 Supplementary Planning Guidance is not policy and therefore does not formally need to go through the same formal process in the same way that the 2nd Deposit Draft of the Minerals Local Plan Review does. Government advice is that supplementary planning guidance will be given more weight in decision making where it has been subject to public consultation and has involved the affected sectors of the business community during its preparation.
- 4.5 The Draft Supplementary Guidance to the Minerals Local Plan was approved by Cabinet and County Council in September 2002 and was the subject of consultation in tandem with the 1st Deposit Draft. It does not need to be formally consulted upon further at this stage. A number of comments and objections were received with regard to the SPG, however, it is considered that none of the issues raised were contentious and only minor changes have been made to its content as a result. It is intended that the revised SPG will be considered for approval by the County Council at the same time as the representations to the 2nd Deposit Draft and any proposed pre-Inquiry changes.

5. Public Consultation Proposals

- 5.1 This is the second formal stage of the Plan Review process and much of the consultation requirements are prescribed in Planning Policy Guidance Note No. 12: Development Plans. If Cabinet and full Council approve the content of the draft Plan then consultation could commence in October 2003. PPG 12 advises that the consultation period should be a minimum of 6 weeks, but advises against longer periods. Although the 1st Deposit draft had a consultation period of ten weeks it is not envisaged that a longer consultation period will be needed at this stage. This is because objections can only be made regarding the changes that have been made. The County Council cannot accept representations that should have been made at the first deposit stage.
- 5.2 As with the 1st Deposit Draft, the 2nd Deposit Draft must be placed on formal deposit so that it is available for inspection by interested parties. It is suggested that the Review be available at County Hall, all District Council Offices and all libraries. It is also a requirement that statutory notices be placed in local newspapers as well as the London Gazette. All those making representations on the 1st Deposit Draft would also be notified, indicating how their representation has been dealt with.

- 5.4 The 2nd Deposit Draft shows the original text together with any alterations that have been made. Alterations are shown by crossing through the original text and underline the new text, i.e.) ~~The old text~~ will be replaced by the new text.
- 5.5 Interested parties will be able to object, support or make comments on the plan by filling in the appropriate form.
- 5.6 This second stage deposit is for the public and organisations to consider the changes that have been made to the original plan and decide whether they are acceptable. Any objections made at this stage to the revised plan and those outstanding from the first deposit stage will then be heard at the public local inquiry.
- 5.7 In addition to the prescribed consultation and publicity for the Plan, it is recommended that the following methods be used:
- direct mailing of consultation documents to significant organisations and stakeholders, including Parish Councils;
 - writing to all those who have indicated that they wish to be kept informed of the Plan's progress following the First Deposit Draft;
 - a copy of the consultation documents made available on HertsDirect, together with on-line response forms;
 - erecting site notices at suitable locations in the proposed preferred areas;
 - carrying out a neighbour consultation in the vicinity of the proposed preferred areas on the same basis as the County Council's policy for consulting on planning applications;

5 Overall programme for the Minerals Local Plan Review

- 6.1 PPG 12 advises that local authorities should publicly adopt a timetable leading to the adoption of the Plan at the start of the Plan preparation process. Such a timetable may need to be indicative until the scale of objection to plan proposals is known. An indicative timetable was included at the Key Issues stage but there has been some slippage since then. Should Cabinet and full Council decide to progress with consultation on the 2nd Deposit Draft of the Review, it is recommended that the following indicative timetable be approved with an appropriate caveat regarding the uncertainties that may arise as a result of the consultation process.

<i>Timetable for Minerals Local Plan Review</i>		
2002	Sept	County Council approval of 1 st Deposit Draft Plan
2002	Oct – Dec	Public consultation on 1 st Deposit Draft Plan
2003	Spring/ Summer	Consideration of responses to 1 st Deposit Draft Plan and preparation of 2 nd Deposit Draft
2003	September	County Council approval of 2 nd Deposit Draft
2003	October/ November	Public consultation on 2 nd Deposit Draft
2004	Spring	Local Plan Inquiry
2004	Summer	Modifications
2004	Autumn/Winter	Adoption

7 Financial Implications

- 7.1 The costs of printing and those associated with the consultation process can be met from existing budgets. The costs of any Local Plan Inquiry have been budgeted for separately.

8 Conclusions

- 8.1 This report sets out the various stages that have been undertaken to progress the Review of the Minerals Local Plan, the outcome of the 1st Deposit Draft consultations, the advice of the Aggregates Panel, proposals for consultation on the 2nd Deposit Draft of the Review and an indicative timetable for the Review process. The Cabinet is asked to make an appropriate recommendation to County Council regarding approval of the 2nd Draft Plan and progressing through the next stages of the development plan process.

Background information used by the author in compiling this report

“A Framework for Site Selection Strategy”, Herts County Council October 1998
 Aggregates Panel papers
 Planning Policy Guidance Note No 12 “Development Plans” 2000
 Minerals Planning Guidance Note No 6 “Guidelines for Aggregates Provision in England” 1994
 “Planning for the Supply of Aggregates in England: a Consultation Paper” DETR October 2000
 “Draft National and Regional Guidelines for Aggregates Provision in England 2001-2016: Consultation Paper”, ODPM August 2002.