

FD.EVR19

Cambridgeshire and Peterborough Minerals and Waste Local Plan

Policy 19: Restoration and Aftercare

(was Policy 20 at the Preliminary Draft stage)

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Introduction and National Policy Context	2
Introduction	2
National policy	2
Local Context in Relation to Policy 19: Restoration and Aftercare	3
Minerals & Waste Local Plan Policy	3
Alternative Reasonable Options	5
Conclusion	6

1. Introduction and National Policy Context

Introduction

- 1.1. Cambridgeshire County Council and Peterborough City Council are reviewing their joint adopted Minerals and Waste Development Plan and supporting documents. These comprise the following documents (with adoption date):
 - Core Strategy Development Plan Document (DPD) (July 2011)
 - Site Allocations DPD (February 2012)
 - Block Fen and Langwood SPD (July 2011)
 - Location and Design of Waste Management Facilities SPD (July 2011)
 - RECAP Waste Management Design Guide SPD (February 2012)
- 1.2. The above Local Development Documents are to be replaced by a single Minerals and Waste Local Plan (MWLP) covering the period to 2036. The new Local Plan will set the overall spatial framework and development management policies for sustainable mineral and waste management development across the plan area.
- 1.3. This Evidence Report provides a narrative on the development of and justification for Policy 19: Restoration and Aftercare in the emerging new Local Plan.

National policy

- 1.4. The National Planning Policy Framework (NPPF 2019) and National Planning Practice Guidance (NPPG) provide the basis of national planning policy. Of specific relevance to Policy 19 are the following paragraphs of the NPPF:
 - Paragraph 170 - *“Planning policies and decisions should contribute to and enhance the natural and local environment by: (a) Protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);... (d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;”*
 - Paragraph 174 - *“To protect and enhance biodiversity and geodiversity, plans should: ... (b) promote conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.”*
 - Paragraph 204, criterion h - *“Planning policies should ensure worked land is reclaimed at the earliest opportunity, taking account of aviation safety, and that high quality restoration and aftercare of mineral sites takes place.”*
- 1.5. The NPPG includes a specific section relating to minerals development. Within this section the following paragraphs are of particular relevance
 - *“The most appropriate form of site restoration to facilitate different potential after uses should be addressed in both local minerals plans, which should include policies to ensure worked land is reclaimed at the earliest opportunity and that high quality*

restoration and aftercare of mineral sites takes place, and on a site-by-site basis following discussions between the minerals operator and the mineral planning authority” (Paragraph: 037 Reference ID: 27-037-20140306)

- *“Restoration may, in some cases, need to be undertaken in phases so as to minimise local disturbance and impacts.” (Paragraph: 040 Reference ID: 27-040-20140306)*
- *“There are many possible uses of land once minerals extraction is complete and restoration and aftercare of land is complete. These include:*
 - *creation of new habitats and biodiversity;*
 - *use for agriculture;*
 - *forestry;*
 - *recreational activities;*
 - *waste management, including waste storage; and*
 - *the built environment, such as residential, industrial and retail where appropriate.*

Some former mineral sites may also be restored as a landfill facility using suitable imported waste materials as an intermediate stage in restoration prior to an appropriate after use.” (Paragraph: 045 Reference ID: 27-045-20140306)

- 1.6. In addition to the NPPF and NPPG, other national legislation or policy relevant to Policy 19 is included within the National Planning Policy for Waste (NPPW). Paragraph 7 of the NPPW states *“When determining waste planning applications, waste planning authorities should: ... ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary.”*

2. Local Context in Relation to Policy 19: Restoration and Aftercare

- 2.1. There are many examples of high quality restoration schemes across the plan area, and the two councils are committed to delivering high quality restoration schemes in the future.
- 2.2. Not only is restoration and aftercare and necessary measure to help mitigate the impact of mineral extraction, but can have significant wider strategic benefits. In the plan area, flood risk management and habitat creation can be of considerable benefit (recognising the considerable flood risk issues in the area, and the high degree of internationally important habitats that are present).

3. Minerals & Waste Local Plan Policy

- 3.1. The Preliminary Draft Plan was published on 16 May 2018 and consulted on over a six week period to 26 June 2018.
- 3.2. The basis of including Policy 19 (was 20) in the new Local Plan is ensure that minerals developments, which are normally of a temporary nature, accord with national policy and also

to ensure that restoration takes place within an agreed timeframe to an acceptable and beneficial use and standard.

3.3. During the Preliminary Draft Consultation, there were 11 representations made on this policy, most of which were in broad support to it, but with a number of suggested wording amendments for clarity. In summary, the main issues raised were:

- Suggested amendment to the wording of the final paragraph to refer to the enhancement of 'ecological networks' rather than 'wildlife corridors';
- There should be a specific criterion referring to the historic environment, as follows: *'Conserve and, where appropriate, enhance heritage assets and their settings'*;
- Suggested amendment to criterion 'c' to read *"demonstrate net biodiversity gain through the promotion, preservation, restoration and recreation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets,..."*
- Suggestion to include a criterion 'g' relating to flood storage areas, replacing existing wording in the final paragraph of the policy;
- Criterion 'e' conflicts with Policy 26 and Paragraph 109 of the NPPF (2012)(Paragraph 170 of NPPF (2019)) and should be amended;
- There should be recognition that in some circumstances it may be appropriate for sites to be restored in such a way that they can be brought forward for alternative long term sustainable development e.g. solar array.
- Temporary access should be made available to sections for recording, sampling and documenting geodiversity where restoration is not feasible.

3.4. All representations were carefully considered.

3.5. As a consequence of the representations, as well considering any new evidence which may have emerged, the policy has been amended for the Further Draft Local Plan as follows:

3.6. The opening paragraph has been reworded, for clarity and effectiveness, with the element referring to phasing moved (and expanded upon) to a new criteria (a)

3.7. Criterion 'c' (was 'b') has been slightly expanded to make it clear that it includes flood risk benefits. This avoids the need for a new criterion on flood risk, as was suggested by a representor.

3.8. Criterion 'd' (was 'c') has been amended to incorporate the suggested wording in order to ensure that the correct terminology is used and the opportunities for net biodiversity gain are taken.

3.9. Criterion 'e' (was 'd') has been extended, to refer to temporary access to geodiversity.

3.10. Criterion 'f' (was 'e') has been reworded and expanded, following several representations on it. It is now clearer in terms of when restoration back to agricultural land will be considered appropriate.

3.11. A new criterion 'g' has been added, to give a clear policy position in respect of restoring land to agricultural use, and, if such restoration is proposed, the need to demonstrate such restoration is the most suitable option.

- 3.12. The previously final paragraph of the policy has been split into two, for clarity. The first part has been amended to make reference to 'enhancement of ecological networks' as suggested. The amendment to the wording will ensure that the policy is in accordance with the NPPF.
- 3.13. The second part, which now forms its own paragraph, has been expanded to remove any doubt where there may be a conflict between what this policy states and what a site specific policy might say.
- 3.14. An additional paragraph has been added to the end of the policy, making it clear any agreed restoration scheme may need to be secured via an appropriate legal agreement.
- 3.15. The Councils have decided not to take forward the suggestion to incorporate a specific criterion relation to the historic environment because there is a specific policy addressing issues in relation to the Historic Environment which would apply to relevant development proposals. The policies of the plan should not be read in isolation, but rather the plan read as a whole. An additional criterion would have no benefit, especially as the policy is in relation to the restoration scheme, not the principle of the development in the first place (which is more likely to have issues in relation to harm on the historic environment - it is highly unlikely that a restoration scheme would have the potential of greater harm on the historic environment, than the harm arising from the development in the first place).
- 3.16. The request to recognise that in some circumstances it may be appropriate for sites to be restored in such a way that they can be brought forward for alternative long term sustainable development e.g. solar array, has not been accepted. If an applicant wishes to propose such measures, and demonstrates it to be the most suitable, when considering all available options, then the applicant would be free to do so. However, determination of such proposals is not directly linked to the purpose of the original application (in the same way as a suggestion to restore the land to housing development), and is not likely to be determined by a minerals and waste authority, and therefore would likely be subject to a separate application process to a district council planning authority. As such, it is not appropriate to include such matters within this policy.
- 3.17. Finally, the supporting text to the policy has been updated slightly.

4. Alternative Reasonable Options

- 4.1. The following alternative options have been considered (including in the Sustainability Appraisal Report):
- Option 1 (the proposed policy): This is the preferred option as it provides locally specific criteria for restoration and aftercare, thus setting clear policy framework for decision takers. The Policy is comprehensive, with a number of criteria, thus ensuring that high quality restoration schemes come forward, and are delivered.
 - Option 2: to not have a specific policy and rely on national guidance. This option has been discounted as there is limited national policy on this matter, and it is unlikely to achieve appropriate and acceptable levels of restoration and aftercare.
 - Option 3: to be more flexible, and leave the choice more open to applicants as to how and when the land is restored. This has been rejected, because restoration schemes offer considerable opportunity for 'gain' (in whatever form that may be), and opportunities for such gain should be taken. A more flexible policy could result in

unsatisfactory restoration schemes coming forward or, worse still, restoration schemes never being delivered.

5. Conclusion

- 5.1. This evidence report demonstrates the rationale for the inclusion of this policy in the Further Draft Plan, and also demonstrates a summary of the issues raised at the earlier Preliminary Draft stage, and how the Councils have considered those issues raised.
- 5.2. Any representations received at the Further Draft consultation stage will be carefully considered, and this Evidence Report will be updated prior to the third and final consultation stage due in late 2019.