

FD.EVR20

Cambridgeshire and Peterborough Minerals and Waste Local Plan

Policy 20: Biodiversity and Geodiversity

(was Policy 22 at the Preliminary Draft stage)

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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 Specific Proposals 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 20: Biodiversity and Geodiversity 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 20 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);...”*
 - Paragraph 171 - *“Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in the Framework;...”*
 - Paragraph 174 - *“To protect and enhance biodiversity and geodiversity, plans should: ...b) promote the 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 175 - *“When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative sites with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;...”*
 - Paragraph 204 - *“Planning policies should ...f) set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable adverse impacts on the natural and historic environment or human health, taking into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in the locality;”*

- Paragraph 205 - "... b) ensure that there are no unacceptable impacts on the natural and historic environment , human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality;..."

1.5. A number of paragraphs from the NPPG are also relevant, as follows:

"...Planning for the supply of minerals has a number of special characteristics that are not present in other development:...

- *working may have adverse and positive environmental effects, but some adverse effects can be effectively mitigated;..."* (Paragraph: 001 Reference ID: 27-001-20140306)

"...The planning system controls the development and use of land in the public interest ... this includes ensuring that new development is appropriate for its location – taking account of the effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution..." (Paragraph: 012 Reference ID: 27-012-20140306)

"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;"* Paragraph: 045 Reference ID: 27-045-20140306

"The usual means to ensure that mitigation or compensation measures are secured is through [planning conditions](#) or [planning obligations](#), depending on circumstances.

Where compensation is required a number of avenues have been available. The applicant might offer a scheme tailored to the specific context, or consider the potential for biodiversity offsetting with the local planning authority.

Biodiversity offsets are measurable conservation outcomes resulting from actions designed to compensate for residual adverse biodiversity impacts arising from a development after mitigation measures have been taken. The goal of biodiversity offsets is to achieve no net loss and preferably a net gain of biodiversity.

Special compensation considerations apply in the case of sites protected by the European Habitats and Wild Birds Directives. If harm to such sites is to be allowed (because there are no alternatives and 'imperative reasons of overriding public interest' can be shown) the Directive requires that all necessary compensatory measures are taken to ensure the overall coherence of the network of European sites as a whole is protected." (Paragraph: 020 Reference ID: 8-020-20140306)

"...Biodiversity enhancement in and around development should be led by a local understanding of ecological networks, and should seek to include:

- *habitat restoration, re-creation and expansion;*
- *improved links between existing sites;*
- *buffering of existing important sites;*

- *new biodiversity features within development; and*
- *securing management for long term enhancement.*” (Paragraph: 017 Reference ID: 8-017-20140306)

“The usual means to ensure that mitigation or compensation measures are secured is through planning conditions or planning obligations, depending on circumstances.

Where compensation is required a number of avenues have been available. The applicant might offer a scheme tailored to the specific context, or consider the potential for biodiversity offsetting with the local planning authority.

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- 1.6. In addition to the NPPF/NPPG, other national legislation or policy relevant to Policy 20 is the National Planning Policy for Waste (NPPW). NPPW Appendix B ‘Locational Criteria’ advises LPAs, when testing the suitability of sites to consider:

“d. nature conservation:

Considerations will include any adverse effect on a site of international importance for nature conservation (Special Protection Areas, Special Areas of Conservation and RAMSAR Sites), a site with a nationally recognised designation (Sites of Special Scientific Interest, National Nature Reserves), Nature Improvement Areas and ecological networks and protected species.”

- 1.7. More generally, there is a wide range of legislation specific to heritage matters in the planning system.

2. Local Context in Relation to Policy 20: Biodiversity and Geodiversity

- 2.1. Cambridgeshire and Peterborough have a range of sites recognised for their biodiversity and geodiversity quality, a number of which have international status.
- 2.2. The published emerging Sustainability Appraisal reports and the Habitats Regulations Assessment report set out considerable details in respect of designated sites, and their status. These documents, in addition to national policy, are of importance when preparing this specific Local Plan policy.

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. Within the Preliminary Draft was **Policy 22: Biodiversity and Geodiversity** (now numbered Policy 20) which placed considerable importance on the conservation and enhancement of biodiversity and geodiversity in accordance with the NPPF and NPPG. The two councils consider it necessary to include a comprehensive policy which reflects the authorities proposed approach, which accords with national policy, and provides a policy framework for developers and decision makers.
- 3.3. During the Preliminary Draft Consultation, there were 6 representations made on this policy, most of which were broadly in support, but there were some representations suggesting amendments to wording. In summary, the main issues raised were:
 - Paragraph 5.14 - third paragraph is incomplete; also amend the list of habitats to include those in the UK national biodiversity strategy; and include an additional point relating to legally protected species; and other suggested wording to criteria.
 - A number of policy criteria should be deleted, as they are more relevant to residential development rather than minerals and waste developments;
 - Biodiversity surveys, including audits of gains and losses should be based on the Defra metric or very similar methodology;
 - Criteria i of the policy should also specifically refer to geodiversity.
- 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 supporting text (including associated bullet points) has been amended, reflecting the representations made. It also reflects the new NPPF (such as the introduction of the phrase 'resilient').
- 3.7. Within the policy, criteria d) to h) (as per the Preliminary Draft) have been removed and the second paragraph has been amended to to remove the last sentence. This is in line with the representation received by Natural England (and others), whom pointed out that the paragraph at the end of the policy adequately covered mitigation.
- 3.8. The section relating to Habitats and Species of Principal Importance has been extended to also cover locally identified habitats and species, as requested by a representor (albeit not amended precisely as requested, because the request would have had the effect of giving locally identified areas the same status as priority species and habitats).
- 3.9. Criterion (d) (was (i)) has been amended as suggested to provide clarity and consistency.
- 3.10. Criterion (h) has been added, in response to a representation regarding the need for temporary access to mineral sites to record geodiversity.

- 3.11. The Councils have decided not to take forward the suggestion make reference to the Defra metric for biodiversity surveys because the councils across the plan area already have an established checklist system in place.
- 3.12. The suggestion to include in the Plan a list of priority species etc. has not been taken forward, because it is not necessary and can be found elsewhere, and in the interests of preparing a succinct plan.

4. Alternative Reasonable Options

- 4.1. The following alternative options have been considered (including in the Sustainability Appraisal Report):
 - Option 1 (proposed policy): include a detailed criteria based policy, consistent with national policy. This is the preferred option, providing a clear policy stance from which impacts on biodiversity and geodiversity can be identified and addressed. Considering the extensive biodiversity and geodiversity of the area, it is essential such a local policy framework is put in place.
 - Option 2: no policy - rely on national policy and other DPDs (including district based DPDs) policies on this subject. Whilst this has some merit in the interests of achieving a succinct development plan for the area, it carries the risk that this important topic area will not be properly considered in minerals and waste development proposals. Bodies and charities which are active on matters raised in this policy have explicitly welcomed a policy, as a matter of principle.
 - Option 3: include a policy, but one which is fundamentally less restrictive / more flexible in considering biodiversity/geodiversity. This has been rejected because it would be contrary to national policy, potentially contrary to legislation and would not appropriately acknowledge or reflect the considerable assets which exist in the plan area. Such a policy therefore could result in unacceptable harm, and could have negative effects on cultural assets and a sense of place.

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 and, as appropriate, amended the draft policy accordingly.
- 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.