

EAST HERTS COUNCIL

NON-KEY DECISION – 19/03

REPORT BY THE LEADER OF THE COUNCIL

HERTFORDSHIRE COUNTY COUNCIL PROPOSED SUBMISSION
MINERALS LOCAL PLAN JANUARY 2019

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- The report proposes the Council's response to the Hertfordshire County Council Proposed Submission Minerals Local Plan January 2019.

**RECOMMENDATION FOR DECISION: That:
Hertfordshire County Council (HCC) be informed that East Herts Council (the Council):**

(A)	Submits this report as its response to the Hertfordshire County Council Proposed Submission Minerals Local Plan January 2019.
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1.0 Background

- 1.1 On 14 January 2019, Hertfordshire County Council (HCC) opened a Regulation 19 consultation on the Hertfordshire Proposed Submission Minerals Local Plan January 2019 (MLP). The consultation closes on 22 March 2019.
- 1.2 HCC is the Minerals Planning Authority with statutory responsibility to plan for future minerals supply within Hertfordshire and determine proposals for the extraction of minerals and associated development.

- 1.3 The Proposed Submission Minerals Local Plan is the final draft of the Minerals Local Plan before it is submitted to the Secretary of State for examination. This consultation follows the Minerals Draft Local Plan consultation in winter 2017-2018 and the initial consultation publication in 2015.
- 1.4 The Proposed Submission Minerals Local Plan identifies sites and areas for future mineral extraction and the policies and approaches in relation to the extraction and safeguarding of minerals reserves and infrastructure over a 15-year plan period.
- 1.5 The Proposed Submission Minerals Local Plan is published alongside a number of supporting documents including a Sustainability Appraisal, Habitat Regulations Assessment and a Site Selection Report. These documents, alongside others are accessible through the link provided under *Background Papers* at the end of this report.
- 1.6 This report sets out the Council's response to the Proposed Submission Minerals Local Plan (MLP). It is currently anticipated that the MLP will be submitted to the Secretary of State in summer 2019.

2.0 Report

General Representations:

- 2.1 The MLP Policies Map (Appendix 2 of the Plan document) identifies a semi-contiguous area across the southern third of the District as falling within the Sand & Gravel Mineral Consultation Area; lesser contiguous and non-contiguous areas are identified within the centre and north of the District.
- 2.2 Within these areas, Policy 8: Mineral Safeguarding seeks to safeguard known mineral resources from unnecessary sterilisation by non-mineral development through requiring consultation with the Minerals Planning Authority.

- 2.3 The Council recognises and supports Policy 8.
- 2.4 The Council does however draw attention to two factual inaccuracies in the opening chapters. Firstly, at paragraph 3.2 there is an incorrect reference to Section 54A of the Town and Country Planning Act 1990 as setting out the provision of a 'Plan led system', this section was repealed by the Planning and Compulsory Purchase Act 2004.
- 2.5 The Council also notes that on page 9, paragraph 4.5 of the Minerals Plan incorrectly refers to a housing target for East Herts as 745dpa – the figure, as adopted in the East Herts District Plan is 839dpa.

Policy 3: Aggregate Supply

- 2.6 Paragraph 207 of the NPPF requires that Minerals Planning Authorities make provision for an identified landbank of at least 7 years for sand and gravel, whilst also ensuring that large landbanks bound up in very few sites do not stifle competition.
- 2.7 Draft Policy 3: Aggregate Supply states that HCC will seek to maintain a steady and adequate supply with a seven-year landbank of sand and gravel reserves throughout the Plan period. Paragraph 8.7 of the Draft Plan calculates a 7-year sand and gravel landbank as 9.73 million tonnes (at 1.39mt per annum) and then goes on to identify a total need of at least 30.58 million tonnes being planned for across a 22-year period.
- 2.8 As it currently reads, it is unclear why the provision for a further 7 years has been made beyond the 15-year plan period. The NPPF requires a 7-year landbank for sand and gravel to be maintained through a plan period – not for an additional landbank of 7 years to be provided beyond it. Whilst the Council advocates a positive approach to planning beyond

identified plan periods – the Council questions whether this approach is justified.

- 2.9 The Council further observes that the MLP may benefit from an annual breakdown of need in order to transparently and clearly identify the total requirement. The Council also requests that the years in which the plan-period relates to are clarified within the MLP as it not currently clearly set out. Whilst it is noted that the Plan relates to a '15-year Plan period', this is not clearly defined within the document which makes it difficult for the reader to understand the context of the Plan and to assess its proposals.

Policy 4: Working of Specific Sites or Preferred Areas

- 2.10 Policy 4 of the MLP identifies three Specific Sites in the proximity of Hatfield. These locations, in addition to existing permitted reserves, amounts to a landbank of approximately 25.56 million tonnes of sand and gravel. A preferred area has also been identified at The Briggens Estate (Olives Farm) within the district of East Hertfordshire. The definition of a Preferred Area is described as 'an area of known resources where planning permission might reasonably be anticipated'.
- 2.11 Inset Map 4 at Appendix A of the MLP identifies the extent of the Proposed Preferred Area 1 on the Briggens Estate as a parcel of 187.75Ha of land to the east of Stanstead Abbots, bound to the south by the A414, to the west by the B181, to the north by the B180 and to the east by the woodlands adjacent to Hunsdon Brook. The MLP indicates potential workable reserves of 10.2 million tonnes of Sand and Gravel with an anticipated annual output of 500,000 tonnes with extraction expected to commence later in the Plan period and take 22 years. Access is anticipated via the B181 but not confirmed.

Preferred Area 1 – The Briggens Estate (Olives Farm)

- 2.12 The Briggens Estate land identified includes and is surrounded by a number of designations affecting land use as summarised within the following paragraphs:
- 2.13 The site is located within the Green Belt; Areas of Archaeological Significance are identified within the site; bordered to the north by Newlands Meadow Wildlife Site; bordered to the east by Lord's Wood Ancient Woodland and Bury Plantation Wildlife Sites; bordered to the south by Stanstead Bury Historic Park and Gardens; bordered to the west by Stanstead Abbots Conservation Area and the Lee Valley Park. Bridleways pass through the site.
- 2.14 Additional designations exist within the wider area including: to the north Black Bushes, Newgate Wood, Moat Wood and Easneye Wood Wildlife Sites; to the east the Eastwick Mead Wildlife Sites and the Hunsdon Brook Fishpond Scheduled Ancient Monument; to the south the Briggens Estate Historic Park and Gardens, Hunsdon Mead SSSI and Rye Meads SSSI and Gravel Pit Wildlife Site and Ramsar Wetlands; to the west the settlement of Stanstead Abbots, Stanstead Abbots Wildlife Site and Amwell Quarry SSSI and Ramsar wetlands. The site also sits within the Impact Risk Zone of Lee Valley Special Protection Area.
- 2.15 Also significantly, to the immediate east of the Preferred Area is the Gilston Area site allocation designated within the East Herts District Plan (Policy GA1). The Gilston Area is to provide for 10,000 homes of which over 3,000 homes are expected to be delivered by 2033. The Gilston Area will also provide 20 forms of entry for both primary and secondary schools, a 5ha employment area/s and forms a key part of the wider Harlow and Gilston Garden Town.
- 2.16 The Council objects to the inclusion of Briggens Estate as a Preferred Area within the MLP for the following reasons:

Green Belt:

- 2.17 Policy GA1 in the District Plan for the Gilston Area included the release of Green Belt land in this area for the development. The Council advises HCC that the Briggens Estate land between Stanstead Abbots and the Gilston Area allocation is still designated as Green Belt and has gained heightened importance in preventing these neighbouring settlements from coalescing.
- 2.18 Policy 4 of the MLP therefore needs to be assessed in the context of Paragraphs 133, 134, 144 and 146 of the National Planning Policy Framework:

Paragraph 133 states that “the essential characteristics of Green Belts are their openness and their permanence.”

Paragraph 134 identifies the five purposes of the Green Belt:

- To check the unrestricted sprawl of large built-up areas;
- To prevent neighbouring towns merging into one another;
- To assist in safeguarding the countryside from encroachment;
- To preserve the setting and special character of historic towns; and
- To assist in urban regeneration, be encouraging the recycling of derelict and other urban land.

Paragraph 144 requires that “substantial weight is given to any harm to the Green Belt. ‘Very Special Circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.”

Paragraph 146 allows development for mineral extraction in the Green Belt “provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt.”

- 2.19 The Council raises concern over the loss of openness to the retained Green Belt which forms the strategic gap between the settlements of Stanstead Abbots and the Gilston Area site allocation. The mineral extraction over the period of 22 years will adversely impact the openness of this area of Green Belt and its heightened function through the perceived coalescence of the existing and new settlements as experienced from those settlements, surrounding areas and public roads and the existing Bridleways that cross the site.
- 2.20 The Council also wishes to draw to HCC's attention to *SSOB v North Yorkshire County Council [2018] EWCA Civ 489*. In this case the judgement was clear that with regards to minerals extraction, visual impact, not just spatial impact, is a key assessment of whether development would damage the openness of the Green Belt. Subsequent to this, the judgement also notes that 'development' in regard to quarries is not limited to just 'built' development – therefore, even in the *absence* of built development, quarrying is no less harmful to the openness of the green belt than the erection buildings.

Cumulative Impacts:

- 2.21 The Council is concerned that throughout the MLP and supporting documentation that cumulative impacts of minerals sites alongside non-minerals developments, with particular regard to the Briggens Preferred Area, have not been assessed or addressed correctly.
- 2.22 The Habitats Regulations Assessment (HRA) Report (December 2018) that accompanies the Proposed Submission Minerals Local Plan identifies that the Briggens Estate Preferred Area has the potential to contribute Heavy Duty Vehicle (HDV) traffic through the M25 Epping Forest Special Area of Conservation; the A414 Lee Valley Special Protection Area/Ramsar; and the A10 Wormley Hoddesdonpark Woods Special Areas of Conservation. Briggens Estate is noted as unique amongst the four minerals extraction sites in the MLP in having potential

impacts upon all three of these areas, furthermore the HRA indicates that detailed traffic modelling is not yet available and that methodologies are yet to be agreed for quantifying in-combination traffic increases. It is also noted that the Briggens Estate may have hydrological and habitat connections with the surrounding sites which would need to be mitigated.

- 2.23 East Herts is also fundamentally concerned that the in-combination effects of the East Herts District Plan and the MLP have not been properly assessed within the MLP HRA. The MLP HRA assesses other Plans for potential in-combination effects in Appendix 2, however the conclusions in the HRA are based on the East Herts HRA conclusions which does not assess the impact of Briggens Estate in combination with the development proposed within the District Plan. The Minerals HRA therefore relies upon conclusions that do not at any point account for the in-combination impacts of the development together.
- 2.24 As noted in this report, the Council advises HCC that a large quantum of non-minerals development is allocated within the area to the east of the Briggens Preferred Area for 10,000 homes within the District Plan; further development is also proposed within the District and neighbouring authorities in the surrounding area.
- 2.25 The Site Selection Report August 2018 (SSR) that accompanies the MLP includes the site sieving summary for the Briggens Preferred Area, noticeably identifying in Site Sieve stage 2 that the proposal to work the site at a rate of 500,000tpa over a period of 22 years would represent a very substantial operation.
- 2.26 It's therefore paramount that cumulative impacts are assessed fully. The Council therefore questions the "Low" impact identified within Site Sieve 3 of the SSR in relation to Cumulative effects and considers that it is essential that the MLP considers non-minerals development within this

assessment which it currently does not. The Cumulative effects assess only the impacts of multiple minerals sites within close proximity to each other rather than the cumulative effects of minerals sites and non-minerals development together.

- 2.27 Site Sieve 3 criterion 'Proximity of allocated residential of built environment' refers incorrectly to the East Hertfordshire Local Plan 2007 and the Pre-submission District Plan 2016. This would be the point where HCC have the opportunity to assess the cumulative impacts of both the Briggens Preferred Area and the Gilston Area development together. The Council therefore requests that HCC revises the Site Selection Sieving to take full account of the East Herts District Plan that was formally adopted in October 2018. However as it currently stands it would seem that only their spatial proximity to each other and not the combined quantum and subsequent impacts have been assessed. It is also extremely concerning that the justification for this criterion does not refer to the adopted District Plan and the Council therefore questions whether the District Plan and the allocation of Gilston in close proximity was ever given 'full-weight' within this assessment.
- 2.28 In Site Sieve stage 3 it is noted that "High" impacts are identified on each of the following criterion: Ancient Woodland; Ecological status of watercourses and bodies; Heritage assets; Recreation of the PRow which cross the site; Sensitive Land Uses; and Sustainable Transport as the site is not located within close proximity to either the rail network or navigable waterway network.
- 2.29 As noted in this report, the Council advises HCC that a large number of Wildlife Sites and SSSIs are also located in the area surrounding Briggens Quarry. The Council therefore questions the "Low" impact identified within Site Sieve 3 in relation to Geodiversity. The SSSIs and Ramsar to the south of Briggens Quarry are identified for the habitats created by the underlying geology, alluvial soils and the quality of water environment. Fundamental disturbance to groundwater flow

and its condition as a result of quarrying may prejudice the quality of these environments.

- 2.30 The Hertfordshire Minerals Local Plan Site Selection Report (August 2018) that accompanies the Proposed Submission Minerals Local Plan appends the Minerals Local Plan Call for Sites Highways Review (Hertfordshire County Council Highway Development Management, September 2017).
- 2.31 In respect of the Briggens Estate the Council notes that HCC as Highway Authority identifies significant concerns which are likely to attract Highway objections in relation to: Highway Impact to the B180 and B181 which are identified as traffic sensitive routes as well as identified congestion hotspots on the A414 junction with A10, A414 junction with B1502/A1170 and B181 Roydon Road southbound; Collision Data with the identified congestion hotspots considered as hazardous junctions; Vulnerable Road Users including to Pedestrians as no footways are present on surrounding roads, Cyclists as no carriageway provision exists on surrounding roads; and HGV Routing.

Conclusion:

- 2.32 In respect of Draft Policy 4, and specifically the Proposed Preferred Area 1 – The Briggens Estate, the Council considers that the proposal for mineral extraction is of a scale and duration such that it would represent significant adverse impacts. These impacts are considered to be heightened due to the sensitive location of the Briggens Estate area between the existing settlement of Stanstead Abbots and the District Plan allocation GA1. Specifically, but not exclusively, the Council object to the inclusion of Briggens Estate on the following grounds:
- i. HCC has not identified the justification for providing a further 7-year landbank beyond the 15-year plan period. If

this is not justified then there is no requirement for the inclusion of the Briggens Preferred Area.

- ii. The openness of the Green Belt will clearly be impacted on by this proposal which has been demonstrated earlier in this report, and HCC has not subsequently demonstrated the exceptional circumstances required to justify this scale of harm to the Green Belt.
- iii. The MLP HRA has failed to properly assess the in-combination impacts of the East Herts District Plan and the MLP by relying upon the East Herts HRA conclusions that do not incorporate any consideration of the Briggens Preferred Area.
- iv. HCC needs to demonstrate that the East Herts District Plan has been fully considered within the Site Selection Site Sieving process to consider in-combination impacts of non-minerals development. This includes, but is not limited to the following points:
 - a) Impact upon the character of the existing settlement of Stanstead Abbots and its Conservation Area and upon potential Areas of Archaeological Significance within the site;
 - b) Impact upon local Wildlife Sites, Ancient Woodland, SSSIs, RAMSAR sites and the Lee Valley SPA including the severance of land connecting these habitats and avoidance effects, including the in-combination impacts of non-minerals development;
 - c) Lack of suitable sustainable transport connections to rail or waterways and potential impact upon highway capacity and safety resultant of heavy duty vehicle movements generated upon the B181, the A414 and the A10 in order to reach the strategic highway network including routing and access onto the M11 at

Junctions 7, future 7a and 8 and through Hertford (A414), including the in-combination impacts of non-minerals development including to those areas within the Harlow and Gilston Garden Town including within the neighbouring authorities of Harlow and Epping Forest.

- d) Potential impact upon air quality resultant of heavy duty vehicle movements generated through the M25 Epping Forest Special Area of Conservation; the A414 Lee Valley Special Protection Area/Ramsar; and the A10 Wormley Hoddesdonpark Woods Special Areas of Conservation, including the in-combination impacts of non-minerals development.
- e) Potential impact upon health resultant of heavy duty vehicle movements generated through surrounding settlements including Stanstead Abbots and routing through Hertford, Sawbridgeworth and Bishop's Stortford Air Quality Management Areas, including the in-combination impacts of non-minerals development including to those areas within the Harlow and Gilston Garden Town in the neighbouring authorities of Harlow and Epping Forest.

2.33 The Council considers that the above impacts, in-combination with non-minerals development in the surrounding area, would be such that the proposed allocation would be contrary to the NPPF, national and international legislation and would be inconsistent with Objectives set out in the MLP itself.

2.34 The Council considers the potential impacts of significance such as to deem the allocation of Proposed Preferred Area 1 – The Briggens Estate unsound or, at the very least, premature to both its necessity and to adequate demonstration that the required presumptive test that “planning permission might reasonably be anticipated”.

2.35 The Council requests that HCC amends Draft Policy 4 and associated parts of the Draft Minerals Plan to delete reference to Proposed Preferred Area 1 – The Briggens Estate.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

Hertfordshire Proposed Minerals Local Plan, January 2019:

<https://www.hertfordshire.gov.uk/About-the-council/Consultations/Environment/Proposed-Submission-Minerals-Local-Plan-Consultation.aspx>

Contact Member: Councillor L Haysey – Leader of the Council
linda.haysey@eastherts.gov.uk

Contact Officer: Sara Saunders – Head of Planning and Building Control, Tel: 01992 531656
sara.saunders@eastherts.gov.uk

Report Author: George Pavey – Principal Planning Officer, Tel: 01992 531623 george.Pavey@eastherts.gov.uk