

Herefordshire Minerals and Waste Local Plan: Hearing Position Statement

Matter 6: Safeguarding Mineral Resources, Infrastructure and Facilities

Lichfields, on behalf of Bourne Leisure Limited

Our ref. 04051/02/NT/PM

Issued 06 October 2022

1.0 Introduction

- 1.1 This Hearing Statement has been prepared by Lichfields on behalf of Bourne Leisure Limited ('Bourne Leisure') in relation to the Examination of the emerging Herefordshire Minerals and Waste Local Plan ('MWLP'). It responds to the Issues and Questions raised by the Inspector in relation to Matter 6 (Safeguarding Mineral Resources, Infrastructure and Facilities).
- 1.2 Separate submissions have been made by Bourne Leisure in respect of Matter 1 (Legal Compliance) and Matter 2 (Vision, Objectives and Spatial Strategy).

2.0 Questions

Q.82 – Does the policy look to safeguard the known locations of all mineral resources of local and national importance in line with paragraph 210(c) of the NPPF?

- 2.1 Figure 7 of the MWLP provides a plan of the proposed Safeguarded Mineral Areas. The scale of the plan – both within the main MWLP document and at Annex A at A3 size – means that it is difficult to accurately identify the boundaries of the proposed Minerals Safeguarding Areas. It is clear that the plan is different to the Mineral Reserves plan in the Interactive Map.
- 2.2 Planning Practice Guidance (PPG) sets out that Minerals Safeguarding Areas should not generally be defined in areas already covered by existing development, where extraction would not be possible in any case, or in designated areas, such as designated heritage assets.
- 2.3 This guidance indicates that areas such as Holme Lacy House Hotel, which is already developed and is a designated heritage asset, should not be defined as a Minerals Safeguarding Area.

- 2.4 It also appears that the Interactive Map is identifying all mineral resources, rather than only those that are intended to be safeguarded (Mineral Safeguarding Areas) or those that are subject to a valid planning permission (mineral reserves).
- 2.5 In light of the above, the Publication Draft MWLP is not sound in relation to the policy test relating to consistency with national policy, as the proposed Minerals Safeguarding Areas appear to include designated areas and urban areas where it is not necessary to do so. It is also not sound in relation to the “justified” policy test, as it does not take account of proportionate evidence in relation to the definition of mineral reserves and resources.
- 2.6 Draft Policy M2 states:
1. *Within the minerals safeguarding areas, non-minerals development will only be supported in the following circumstances:*
 - a. *the development would not sterilise or prejudice the future extraction of the mineral resource because it can be demonstrated that the resource: is not of economic value; occurs at depth and can be extracted in an alternative way; does not exist or has been sufficiently depleted by previous extraction; or*
 - b. *the mineral can be extracted satisfactorily prior to non–minerals development without materially affecting the timing and viability of the non-minerals development; or*
 - c. *the non-minerals development is of a temporary nature that can be completed and the site returned to a condition that does not prevent mineral extraction or operation of the associated infrastructure within the timescale that the mineral is likely to be needed; or*
 - d. *the need for the non-mineral development is strategic and can be demonstrated to outweigh the need for the mineral resource and associated infrastructure.*
 2. *Where the operation of an existing mineral working could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant shall be required to provide suitable mitigation before the new development is completed.*
- 2.7 As also referred to in our submissions in respect of ‘Matter 2’, we do not consider Policy M2 to be justified, or comply with national policy.
- 2.8 The current wording of Policy M2 will prevent non-mineral development in the safeguarded areas. As set out above, the Mineral Safeguarding Areas should include areas where it would not be appropriate to extract mineral resources. However, there should also be a provision in policy to allow non-minerals development in circumstances where a site is included within a larger Minerals Safeguarding Area but where minerals extraction is not appropriate. For example, an individual site may be located in close proximity to existing sensitive uses, such as residential or holiday accommodation and so would not be suitable for mineral extraction.

- 2.9 Policy M2 should not sterilise non-minerals development in Minerals Safeguarding Areas where extraction would not be appropriate, for example where it would conflict with national or local planning policy designations and/or impact upon neighbouring amenity.
- 2.10 As drafted, Policy M2 is not sound in relation to the “justified” policy test, as it is not a reasonable strategy based on Policy S1 in the Core Strategy and does not take account of the fact that some individual sites may not be suitable for mineral extraction.

3.0 Suggested Amendments

- 3.1 In respect of Figure 7 of the MWLP, if the areas labelled “Mineral Reserves” on the Interactive Map are intended to identify the presence of all mineral resources, and not only the areas to be safeguarded (Mineral Safeguarding Areas) or those that are subject to a valid planning permission (mineral reserves), this should be made clear and the map layer relabelled “Mineral Resources”.
- 3.2 Minerals Safeguarding Areas should be illustrated separately on this map. The Council should also ensure there is appropriate alignment between the two maps, Figure 7 in the emerging MWLP and the Interactive Map, in relation to the proposed Minerals Safeguarding Areas.
- 3.3 The Minerals Safeguarding Areas should not include designated areas or urban areas unless there is a specific need to do so. Given that it is already developed and is a designated heritage asset, Holme Lacy House Hotel and its grounds should not be included within a Minerals Safeguarding Area.
- 3.4 Bourne Leisure also proposes that Policy M2 of the draft MWLP is amended as follows to add a new part (e):

“1. Within the minerals safeguarding areas, non-minerals development will only be supported in the following circumstances:

- a. the development would not sterilise or prejudice the future extraction of the mineral resource because it can be demonstrated that the resource: is not of economic value; occurs at depth and can be extracted in an alternative way; does not exist or has been sufficiently depleted by previous extraction; or*
- b. the mineral can be extracted satisfactorily prior to non–minerals development without materially affecting the timing and viability of the non-minerals development; or*
- c. the non-minerals development is of a temporary nature that can be completed and the site returned to a condition that does not prevent mineral extraction or operation of the associated infrastructure within the timescale that the mineral is likely to be needed; or*
- d. the need for the non-mineral development is strategic and can be demonstrated to outweigh the need for the mineral resource and associated infrastructure.*

e. the extraction of the mineral resource would not be appropriate in the context of national or local planning policy designations and/or impact upon neighbouring amenity.

2. Where the operation of an existing mineral working could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant shall be required to provide suitable mitigation before the new development is completed.
(proposed amendments underlined)