

Herefordshire Minerals and Waste Local Plan: Hearing Position Statement

Matter 2: Vision, Objectives and Spatial Strategy

Lichfields, on behalf of Bourne Leisure Limited

Our ref. 04051/02/NT/PM

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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 2 (Vision, Objectives and Spatial Strategy).
- 1.2 Separate submissions have been made by Bourne Leisure in respect of Matter 1 (Legal Compliance) and Matter 6 (Safeguarding Mineral Resources, Infrastructure and Facilities).

2.0 Questions

Q.25 – How would the Plan's policies meet objective 12 in terms of promoting, utilising and enjoying heritage and cultural assets?

Protection from adverse impacts of minerals and waste development

- 2.1 Objective 12 of the Publication Draft MWLP (2021) states:
- "To conserve, promote, utilise and enjoy our natural, built, heritage and cultural assets for the fullest benefits to the whole community, by: safeguarding the county's current stock of valued heritage and significant environmental assets from loss and damage, and seeking enhancement; reversing negative trends; ensuring good quality landscape design and condition; delivering site betterment; and appropriately managing future assets."*
- 2.2 The NPPF states at paragraph 211b that minerals planning authorities should, in considering proposals for minerals extraction:
- "ensure that there are no unacceptable adverse 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."*
- 2.3 The PPG adds that mineral planning authorities should address the potential environmental impacts of proposals for minerals development proposals, including in

relation to noise, dust, air quality, visual impact on the local and wider landscape, landscape character, and architectural and heritage features (Ref ID: 27-013-20140306).

2.4 Objective 5 in the emerging MWLP states:

“To optimise the contribution that mineral working and waste management makes to Herefordshire’s economy as land-based industries, balanced with effective protection of people, places and businesses from adverse impacts.”

2.5 Bourne Leisure is concerned that Draft Objective 5 in the Publication Draft MWLP does not provide explicit protection for amenity in relation to sensitive receptors, such as residential and holiday accommodation. Should minerals and waste operations give rise to unacceptable adverse impacts there is a risk that tourists may be deterred from visiting or returning to the area, thereby impacting on the local economy.

2.6 Furthermore, many leisure facilities, such as large country house hotels, are listed buildings, and as such require significant ongoing investment to maintain them. If income from visitors reduces, this affects the overall viability of the operation, which directly affects the level of maintenance that is undertaken. Over a prolonged period, this could lead to adverse impacts upon the significance of the building as a heritage asset.

2.7 Accordingly, Section 3.0 of this submission sets out our suggested amendments.

Appropriate non-minerals development

2.8 The Plan’s draft policies also do not meet Objective 12, as they would sterilise land from non-minerals development where this development is appropriate and is needed to support the conservation, promotion, utilisation and enjoyment of built, heritage and cultural assets.

2.9 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.

2.10 Figure 7 of the draft MWLP identifies the minerals safeguarding areas. It appears that the safeguarded areas cover the entire mineral reserve areas, rather than just areas that are intended to be safeguarded, or currently in use for extraction.

2.11 As drafted, 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.

Policy M2

2.12 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.*

2.13 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.

2.14 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.

2.15 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.

Paragraph 5.4.26

2.16 The Publication Draft MWLP states at paragraph 5.4.26:

“Minerals and waste development proposals should take account of the significance of heritage assets (whether above or below ground, designated or non-designated, and their setting) and include a clear strategy for enhancing the historic environment character.”

2.17 Bourne Leisure considers that the proposed approach in paragraph 5.4.26 in the Publication Draft MWLP should go further to state that minerals and waste proposals

should avoid or minimise any conflict between conservation of the heritage asset and any aspect of the proposal.

2.18 Paragraph 190 of the NPPF states:

Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:

a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;

2.19 As drafted, Bourne Leisure considers that the section on the historic environment and heritage assets in the draft MWLP does not comply with the fourth test of soundness in the NPPF (“Consistent with national policy”), as it does not set out a positive strategy for the conservation and enjoyment of the historic environment.

3.0 Suggested Amendments

3.1 Bourne Leisure proposes that Objective 5 of the draft MWLP is amended as follows:

“To optimise the contribution that mineral working and waste management makes to Herefordshire’s economy as land-based industries, ~~balanced with effective protection of~~ whilst ensuring that there are no unacceptable adverse impacts on people, places and businesses ~~from adverse impacts.~~” (proposed amendments underlined)

3.2 Figure 7 should also be amended to differentiate between ‘Mineral Reserves’ and the areas to be safeguarded.

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 In respect of Policy M2, Bourne Leisure consider this should be amended to add an additional part (e) which ensures new mineral extractions respect existing properties:

“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)

3.5 Finally, Bourne Leisure proposes that draft paragraph 5.4.26 is amended as follows in order to provide consistency with national policy:

“Minerals and waste development proposals should take account of the significance of heritage assets (whether above or below ground, designated or non-designated, and their setting), avoid or minimise any conflict between conservation of the heritage asset and any aspect of the proposal and include a clear strategy for enhancing the historic environment character.” (proposed amendments underlined)