

Minerals and Waste Local Plan

Response to Lichfields (on behalf of Bourne Leisure Limited)

**Main Matter 1 – Legal Compliance
Question 11**

**Main Matter 2 – Vision, Objectives and Spatial Strategy
Question 25**

**Main Matter 6 – Safeguarding Mineral Resources, Infrastructure and Facilities
Question 82**

1. Introduction

- 1.1 This document has been prepared by Herefordshire Council (HC) to provide written response to the *Statements submitted by Lichfields on behalf of Bourne Leisure Ltd* (Examination Library refs. D4.27, D4.28, D4.29 & D4.30) to the *Inspectors' Matters, Issues and Questions* (Examination Library ref. D4.3).
- 1.2 It is set out in the following order:
- Section 2 - Main Matter 1, question 11
 - Section 3 - Main Matter 2, question 25
 - Section 4 - Main Matter 6, question 82
- 1.3 Within each section, the sub-headings used in the Lichfields statement have been repeated to help link the response to the points being made.

2. Main Matter 1 – Legal Compliance

Question 11

- 2.1 As confirmed in *Herefordshire Council's Matter 1 Statement, Part B* (Examination Library ref. D4.6) at questions 11 and 12, the Plan complies with the appropriate legislation, regulations and the *Statement of Community Involvement* (Examination Library ref. D2.26) in terms of publishing and making available the prescribed documents and reporting the representations received.

Town and Country Planning (Local Development) (England) Regulations 2012, paragraph 22(v)

- 2.2 The *Preparing the Plan Report – Update Pre-Examination* (Examination Library ref. D3.70) provides an overview of all of the key matters raised in the regulation 19 representations. These are ones which have led to edits being proposed to the Minerals and Waste Local Plan (MWLP or 'the Plan'). The report also considers some representations that have not led to proposed edits, as part of the consideration of all elements of received representations.
- 2.3 The regulatory requirements are therefore considered to have been fully met.

Planning Practice Guidance for Local Plans, paragraph 52; the submission of 'details of how the main issues raised have been addressed.'

- 2.4 In preparing for Examination, the Council has carefully reviewed the regulation 19 representations received and considered whether any changes should be made to the MWLP prior to its adoption.
- 2.5 The *Preparing the Plan Report – Update Pre-Examination* (Examination Library ref. D3.70) addresses those representations that are considered to be key matters in relation to the submission version of the MWLP, i.e. those that the Council suggests would be appropriately dealt with through proposed main modification to the Plan.
- 2.6 The main issues identified and addressed in detail in the *Preparing the Plan Report – Update Pre-Examination* are:
- River Wye SAC and the River Lugg SAC catchment;
 - Impacts on heritage assets;
 - Minerals;

- Waste;
- Key Development Criteria; and
- Other Matters.

In addition, the report also addresses key legislation and policy matters, relating to European legislation of relevance to the MWLP and the updated National Planning Policy Framework.

- 2.7 The MWLP's production process is considered to have complied with the Government's local plan making guidance.

Statement of Community Involvement (SCI), paragraphs 7.1 and 9.4

- 2.8 The Plan was produced in accordance with the *SCI* adopted in 2017 (Examination Library ref. D2.26).
- 2.9 A list of all representations received at regulation 19 have been published on the Council's website, both in Plan order and in respondent order (Examination Library refs. D3.52 and D3.53)
- 2.10 As part of the Plan's preparation process all representations received in response to the regulation 19 consultation were both acknowledged and fully considered, with the main issues addressed through the *Preparing the Plan Report – Update Pre-Examination* (Examination Library ref. D3.70). This report sets out the Council's feedback on the key points raised and the proposed changes to the Plan considered necessary, in response.
- 2.11 Alterations that the Council considers would be appropriate have been made available for discussion at the examination through the *Schedule of Main Modifications and Minor Changes proposed Pre-Examination* (Examination Library ref. D3.75).
- 2.12 The Plan production process is considered to have been carried out in accordance with the *SCI*.

3. Main Matter 2 – Vision, Objectives and Spatial Strategy

Question 25

Protection from adverse impacts of minerals and waste development

- 3.1 At paragraph 2.5 of its statement (Examination Library ref. D4.29), Lichfields states a concern that Objective 5 of the 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. ...*'
- 3.2 The objectives are, purposefully, strategic; their text does not, and cannot, specify every detail. They have been carefully drafted to appropriately encompass a number of different elements, such that the phrasing '*balanced with effective protection of people, places and businesses from adverse impacts*' would incorporate consideration of amenity.
- 3.3 No evidence has been provided to date to demonstrate that minerals or waste developments have deterred tourists from visiting or returning to Herefordshire.

3.4 The proposed modification (paragraph 3.1 of the *Lichfield Statement – D4.29*) is not agreed by HC. The MWLP (including the strategic objectives) has been drafted to present a positive framework within which to bring forward appropriate minerals and waste development. Objective 5 makes clear the intention to realise the benefits that can be gained from minerals and waste development and that these will be considered against the need to protect people, places and businesses from adverse impacts.

Appropriate non-minerals development

3.5 The Plan is not relevant to non-minerals or waste development, except as would be captured by policy W3 and the safeguarding policies. The *NPPF* (Examination Library D1.25) makes very clear (at paragraph 210,c) that planning policies should ‘*safeguard mineral resources by defining Mineral Safeguarding Areas and Mineral Consultation Areas; and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked)*’.

3.6 This level of safeguarding resource is provided within the Plan.

3.7 *Planning Practice Guidance* (Examination Library ref. D1.40) also addresses mineral safeguarding, advising (at paragraph: 003 Reference ID: 27-003-20140306): ‘*Mineral planning authorities should adopt a systematic approach for safeguarding mineral resources, which:*

- *uses the best available information on the location of all mineral resources in the authority area. This may include use of British Geological Survey maps as well as industry sources;*
- *consults with the minerals industry, other local authorities (especially district authorities in 2-tier areas), local communities and other relevant interests to define Minerals Safeguarding Areas;*
- *sets out Minerals Safeguarding Areas on the policies map that accompanies the local plan and define Mineral Consultation Areas; and*
- *adopts clear development management policies which set out how proposals for non-minerals development in Minerals Safeguarding Areas will be handled, and what action applicants for development should take to address the risk of losing the ability to extract the resource. This may include policies that encourage the prior extraction of minerals, where practicable, if it is necessary for non-mineral development to take place in Minerals Safeguarding Areas and to prevent the unnecessary sterilisation of minerals.’*

3.8 This is the approach that has been followed in preparing the Plan.

3.9 The PPG continues, advising at paragraph: 004 Reference ID: 27-004-20140306: ‘*Is it appropriate to safeguard mineral resources in designated areas and urban areas? Safeguarding mineral resources should be defined in designated areas and urban areas where necessary to do so. For example, safeguarding of minerals beneath large regeneration projects in brownfield land areas can enable suitable use of the mineral and stabilisation of any potentially unstable land before any non-minerals development takes place.’*

3.10 *Herefordshire Council’s Matter 6 Statement* (Examination Library ref. D4.13) addresses the Council’s approach to safeguarding. This clarifies (at question 88) that a 500m buffer around the defined urban areas has been used to define the Minerals Safeguarding Areas.

- 3.11 Holme Lacy House is located within an identified resource of superficial sand/gravel. The application of the 500m buffer around Holme Lacy does not extend as far as Holme Lacy House. Consequently, this property is located within a Minerals Safeguarding Area, but not a Preferred Area.
- 3.12 *Herefordshire Council's Matter 4 Statement, Part C* (Examination Library ref. [D4.11](#)) proposes (in response to question 74) a modification to the Key Diagram (Figure 6) and additional text within the Plan to confirm that mineral working should not take place within the Wye Valley Area of Outstanding Natural Beauty.
- 3.13 It is further proposed that modifications to the text within Figure 6 would change the words 'General Search Areas' to 'Minerals Safeguarding Areas' to clarify this element of the Plan. The safeguarded railheads are also proposed to be identified within the modified Key Diagram. Finally, though not a matter addressed in the Lichfields Statements, Preferred Area A has been modified to ensure it remains within the Plan area.
- 3.14 Figure 7 also requires modifications, not least to correct the typing errors that are on it. Reference to 'reserve' on this mapping should be changed to 'resources'.
- 3.15 Together, these modifications should address the suggested amendments made at paragraph 3.2 of the *Lichfields Statement, Main Matter 2* (Examination Library ref. [D4.29](#)).
- 3.16 The proposed amended Figures 6 and 7 are provided with this response, in Appendices A and B. Subsequently, these will also be made available in an updated schedule of main modifications and minor changes proposed to the Plan, to be added to section 4 (Examination documents) of the Examination Library.
- 3.17 The proposed modification (paragraph 3.3 of the *Lichfields Statement, Main Matter 2 – D4.29*) is not agreed by HC. As previously set out, the Herefordshire Local Plan makes appropriate provision to consider the impact on heritage assets. Matters in relation to safeguarding are addressed in more detail below, in section 4 responding to *Lichfields Statement, Main Matter 6* (Examination Library ref. [D4.30](#)).

Policy M2

- 3.18 The purpose of policy M2 is to prevent non-minerals development within the Minerals Safeguarding Areas. Policy M2 sets out the tests to be met by any non-minerals development; these are quite standard across minerals policy. Paragraph 6.1.11 of the Plan repeats the *NPPF* advice that safeguarding is necessary '*in order that known locations of specific minerals resources of local and national importance are not needlessly sterilised by non-mineral development, whilst not creating a presumption that the resources so defined will be worked.*'
- 3.19 The proposed modification (paragraph 3.4 of the *Lichfield Statement – D4.29*) is not agreed by HC. To include a criterion along the lines of '*mineral extraction would not be appropriate*' would be to lessen the strength of the policy and risk inappropriate sterilisation of a finite resource. The opportunity would remain with the developer to demonstrate why development of the type proposed at any location should be permitted, even though there would be some conflict with development plan policy.
- 3.20 These are development management considerations typically addressed within minerals and waste applications. The Herefordshire Local Plan makes appropriate provision to

consider the impact on all development management criteria, including heritage assets and neighbouring amenity.

Paragraph 5.4.26

- 3.21 At paragraph 2.17, the *Lichfields Statement, Main Matter 2* (Examination Library ref. D4.29) suggests that the Plan should require mineral and waste developments to 'avoid or minimise any conflict between conservation of the heritage asset and any aspect of the proposal.' (my emphasis) This would not align with the expectations of the NPPF and would set an inappropriate standard to be met by any development proposal.
- 3.22 The proposed modification (paragraph 3.5 of the *Lichfield Statement – D4.29*) is not agreed by HC. A positive strategy for the historic environment is set out within the Plan. Further detail on this matter is given in *Herefordshire Council's Matter 2 Statement* (Examination Library ref. D4.7) at question 25.

4. Main Matter 6 – Safeguarding Mineral Resources, Infrastructure and Facilities

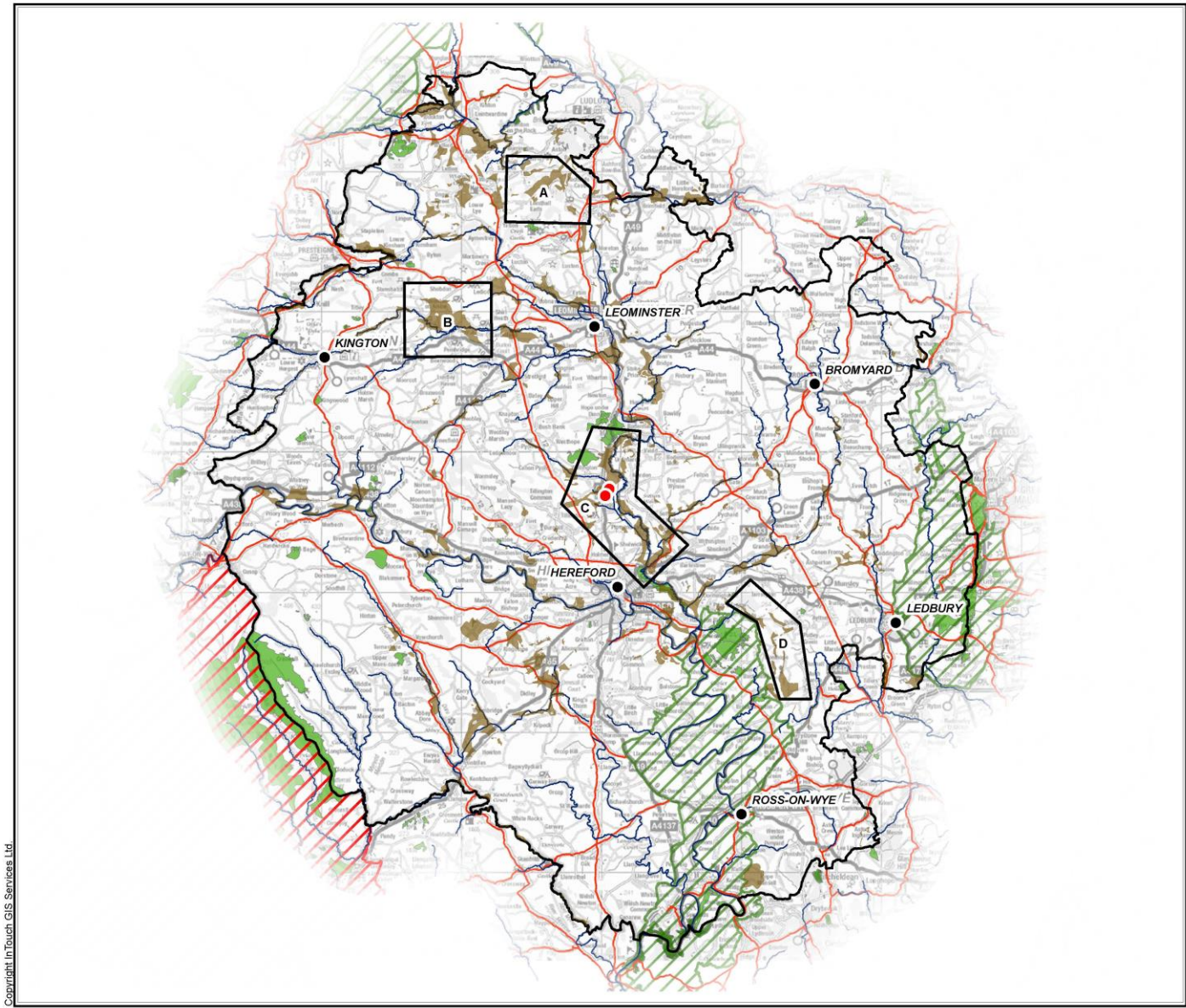
Question 82

- 4.1 As noted above, modifications are proposed to Figures 6 and 7. The phrasing used within the interactive mapping will also be updated to ensure it is consistent with the Plan. All of the elements shown in Figures 6 and 7 of the Plan are available on the interactive mapping.
- 4.2 The PPG does not advise 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*' as stated at paragraph 2.2 of the *Lichfields Statement, Main Matter 6 – D4.30*. The advice at paragraph 004 of the PPG is set out at paragraph 3.9 above.
- 4.3 The approach used by HC has been to exclude urban areas and a 500m buffer zone, as explained in response to question 88 in *Herefordshire Council's Matter 6 Statement* (Examination Library ref. D4.13). A proposed modification to the Key Diagram (Figure 6) would confirm that mineral working should not take place within the Wye Valley Area of Outstanding Natural Beauty (*HC Statement, Matter 4, question 74 – D4.11*).
- 4.4 Holme Lacy House Hotel is located within a Minerals Safeguarding Area. That the superficial sand/gravel is defined as Minerals Safeguarding Area does not create a presumption that the resource would be worked. That the area is not identified as either a Specific Site or a Preferred Area and the designation of Holme Lacy House as a Grade I listed building would all be key policy factors in the determination of any application that might be submitted.
- 4.5 The points raised in the *Lichfields Statement, Main Matter 6* (Examination Library ref. D4.13) in regard to policy M2 are addressed above, in section 3 of this response.

Appendix A

Proposed Modifications to Figure 6 of the MWLP

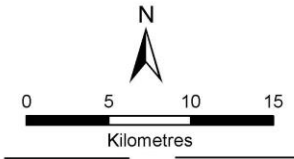
(See below)



Herefordshire Minerals and Waste Local Plan

**Figure 6
Key Diagram**

- Rail Heads
- Preferred Areas
- Minerals Safeguarding Areas
- Major Rivers
- Major Roads
- Brecon Beacons National Park
- AONB
- National Network Sites
- UK Ecological Designations



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Appendix B

Proposed Modifications to Figure 7 of the MWLP

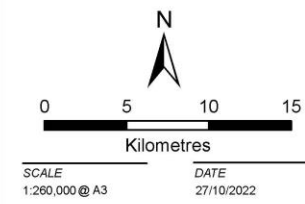
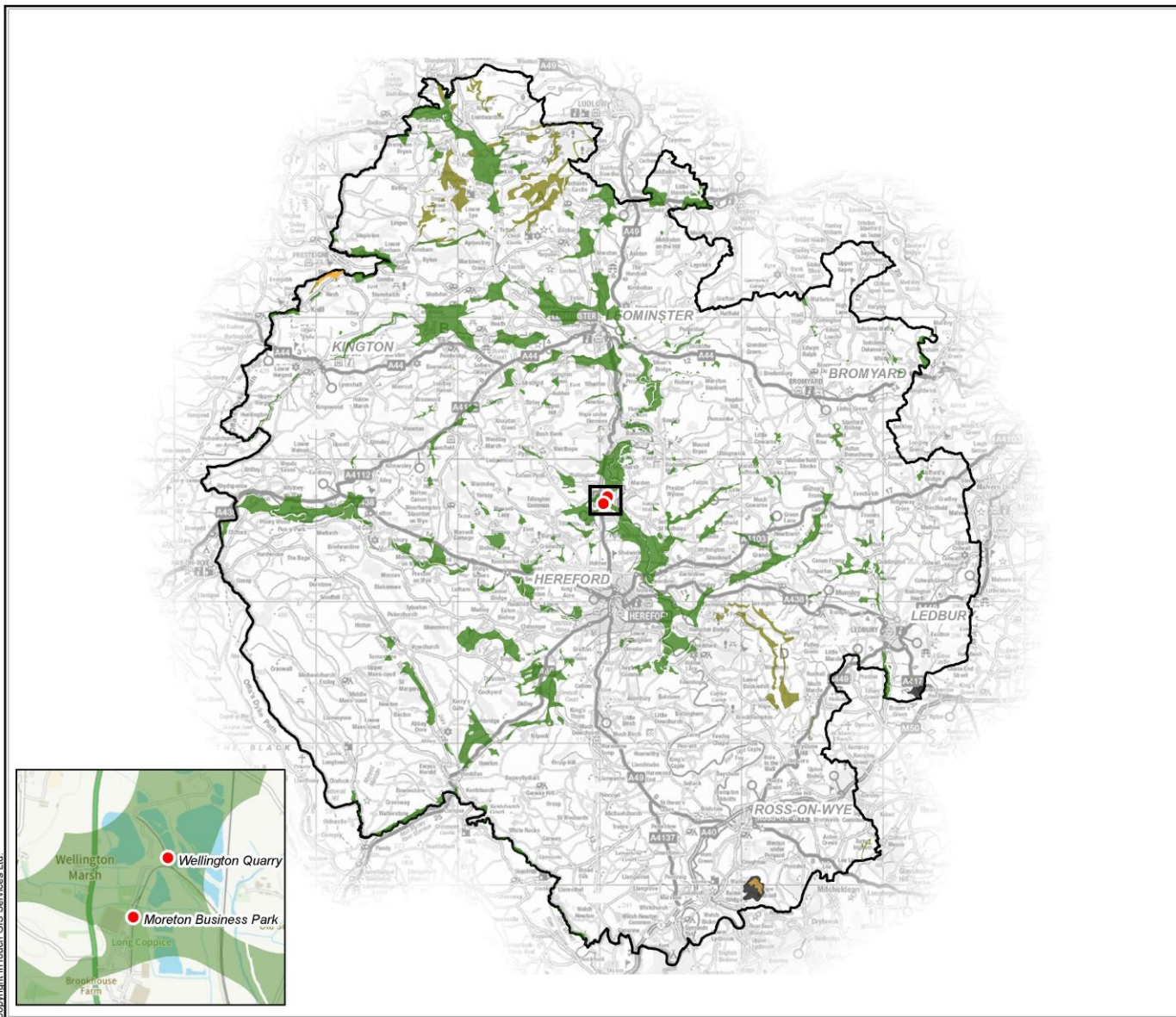
(See below)

Herefordshire Minerals and Waste Local Plan

**Figure 7
Minerals Safeguarding Areas
including Rail Heads**

Mineral Resources

- Brick Clay
- Coal
- Limestone (including dolomite)
- Sandstone: Pre-Cambrian, Ordovician, Silurian Greywacke
- Superficial Sand/Gravel
- Rail Heads



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