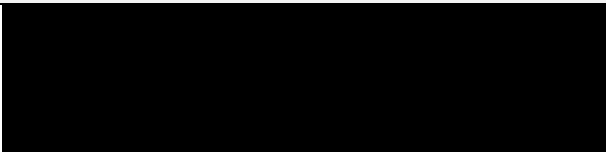


## Part 1 – Respondent Details

<b>1(a) Personal details</b>		
<b>Title</b>	Mrs	
<b>First Name</b>	Rebecca	
<b>Last Name</b>	Micklem	
<b>Job Title (where relevant)</b>	Senior Conservation Officer	
<b>Organisation (where relevant)</b>	Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust	
<b>1(b) Agent details</b> <i>Only complete if an agent has been appointed</i>		
<b>Title</b>		
<b>First Name</b>		
<b>Last Name</b>		
<b>Job Title (where relevant)</b>		
<b>Organisation (where relevant)</b>		
<b>1(c) Contact address details</b> <i>If an agent has been appointed please give their contact details</i>		
<b>Address Line 1</b>	The Lodge	
<b>Line 2</b>	1 Armstrong Road	
<b>Line 3</b>	Littlemore	
<b>Line 4</b>	Oxford	
<b>Postcode</b>	OX4 4XT	
<b>Telephone No.</b>	01865 775476	
<b>Email address</b>	beccymicklem@bbowt.org.uk	
<b>Are you writing as</b>	<input type="checkbox"/> <b>A resident</b> <input type="checkbox"/> <b>A local business</b> <input type="checkbox"/> <b>Minerals industry</b> <input type="checkbox"/> <b>Waste industry</b>	<input type="checkbox"/> <b>A parish council</b> <input type="checkbox"/> <b>A district council</b> <input type="checkbox"/> <b>A county council</b> <input checked="" type="checkbox"/> <b>Other (please specify)</b> Environmental NGO

<b>Please tick the appropriate boxes if you wish to be notified of any of the following:</b>	
That the Oxfordshire Minerals & Waste Core Strategy has been submitted for independent examination	✓
Publication of the Inspector’s report and recommendations	✓
Adoption of the Oxfordshire Minerals and Waste Core Strategy	✓

<b>Please sign and date the form:</b>			
<b>Signature:</b>		<b>Date:</b>	30/09/2015

## Part 2 – Representation

Please complete this part (Part 2) of the form separately for each separate representation you wish to make.

You can find an explanation of the terms used below in the accompanying guidance on making representations.

### 2(a) State which part of the Oxfordshire Minerals and Waste Local Plan Core Strategy you are making a representation about

Part or policy no. or paragraph

Policy M10

### 2(b) Do you consider the Oxfordshire Minerals and Waste Local Plan Core Strategy is: (tick as appropriate)

- (i) Legally compliant?       Yes                       No
- (ii) Sound?                       Yes                       No

If you have answered **No** to question 2(b)(ii), please continue to question 2(c). In all other cases, please go to question 2(d).

### 2(c) Do you consider the Oxfordshire Minerals and Waste Core Strategy is unsound because it is not: (tick as appropriate)

- (i) Positively prepared                      ✓
- (ii) Justified                                      ✓
- (iii) Effective                                      ✓
- (iv) Consistent with national policy                      ✓

On the following pages, please set out why you think the Minerals and Waste Local Plan Core Strategy is legally non-compliant and/or unsound and any changes you are suggesting should be made to it that would make it legally compliant or sound.

**Please note** your representation should include as succinctly as possible all the information and evidence necessary to support/justify the representation and the suggested change, as there will not normally be a subsequent opportunity to make further representations based on your representation at this stage. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.

**2(d) Please give details of why you consider the Oxfordshire Minerals and Waste Local Plan Core Strategy is not legally compliant or is unsound. Please be as precise as possible.**

**If you agree that the Oxfordshire Minerals and Waste Local Plan Core Strategy is legally compliant and/or sound and wish to support this, please also use this box to set out your comments.**

Policy M10 Restoration of Minerals Workings is not sound, since it does not deliver on Minerals Planning Objective x. of the Core Strategy.

Section 3.4 of the Core Strategy identifies Minerals Planning Objectives, which includes objective x :

‘Implement a biodiversity-led restoration strategy that delivers a net gain in biodiversity, and contributes to establishing a coherent and resilient ecological network, through the landscape-scale creation of priority habitat.’

BBOWT is strongly supportive of the objective to implement biodiversity-led restoration of minerals sites. Nationally, the need to undertake large scale habitat restoration has been recognised through the Lawton Review (Making Space for Nature: A Review of England’s Wildlife Sites and Ecological Network), The Natural Environment White Paper and Biodiversity 2020: A Strategy for England’s Wildlife and Ecosystem Services. The need for biodiversity-led restoration of minerals sites stems from the need to not only to conserve but also to expand the biodiversity resource in Oxfordshire, where only 4% of the land area has special wildlife value (i.e. falls within a designated site or is priority habitat). The strategy for biodiversity conservation in the County is the Oxfordshire Biodiversity Action Plan (BAP) and associated Conservation Target Areas (see <https://www.oxfordshire.gov.uk/cms/content/oxfordshires-biodiversity-action-plan> ). The restoration of minerals sites can make a significant contribution towards meeting targets for habitat creation in the County as set out in the BAP, and achievement of the aims of landscape scale conservation in the Conservation Target Areas.

Much information is provided within the contextual text accompanying policy M10 regarding delivery of biodiversity through restoration of minerals sites, including paragraph 4.76 which describes a biodiversity-led restoration strategy.

However, policy M10 does not require biodiversity-led restoration. Therefore, Policy M10 is not sound as:

It has **not been positively prepared**; by not including a policy that delivers on the objective for biodiversity-led restoration, the plan does not provide the sustainable development that it has identified is needed.

It is **not justified** since it does not reflect the outcomes of discussions between the County Council and biodiversity partners which supported the need for biodiversity-led restoration

It is **not effective** since without a policy requiring biodiversity-led restoration the Core Strategy will not achieve Minerals Planning Objective x.

Continue on a separate sheet or expand the box if necessary

**2(e) Please set out the changes(s) you consider necessary to make the Oxfordshire Minerals and Waste Local Plan Core Strategy legally compliant or sound, having regard to the reason you have identified at 2(c) above where this relates to soundness. You should say why this change will make the Core Strategy legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.**

I suggest the following change/addition to Policy M10, in order that it delivers on Minerals Planning Objective x. of the Core Strategy. This would make Policy M10 sound since it would become effective in allowing the objective for biodiversity-led restoration to be achieved. The change to Policy is justified since it reflects discussions between Oxfordshire County Council and biodiversity partners; the change also demonstrates positive planning by helping to ensure the plan can achieve sustainable development.

Policy M10 Restoration of Minerals Workings suggested re-wording (changes in bold text):

*'Mineral workings shall be restored to a high standard and in a timely and phased manner to an after-use that is appropriate to the location and delivers a net gain in biodiversity.'*

***The primary function of restoration of minerals workings must be the conservation and enhancement of biodiversity appropriate to the local area, supporting the establishment of a coherent and resilient ecological network through the landscape-scale creation of priority habitat, unless the need for non-biodiversity restoration can be clearly demonstrated.***

*The restoration of mineral workings must take into account:*

- *the characteristics of the site prior to mineral working;*
- *the character of the surrounding landscape and the enhancement of local landscape character;*
- *the amenity of local communities, including opportunities to enhance green infrastructure provision and provide for local amenity uses and recreation;*
- *the capacity of the local transport network;*
- *the quality of any agricultural land affected;*
- *flood risk and opportunities for increased flood storage capacity;*
- *bird strike risk and aviation safety;*
- *any environmental enhancement objectives for the area;*
- *the conservation and enhancement of geodiversity; and*
- *the conservation and enhancement of the historic environment.'*

Continue on a separate sheet or expand the box if necessary.

**2(f) Written representations or oral hearing**

If your representation is seeking a change to the Oxfordshire Minerals and Waste Local Plan Core Strategy, do you consider it necessary to participate at the oral hearing part of the examination? *(tick box below as appropriate)*

<p><b>No</b>, I wish to communicate through written representations</p>	
<p><b>Yes</b>, I wish to participate at the oral hearing part of the examination (go to 2(g))</p>	✓

***Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated they wish to participate at the hearing part of the examination.*

**2(g) If you wish to participate at the hearing part of the examination, please outline why you consider this to be necessary.**

BBOWT have been involved in a Biodiversity Working Group looking at biodiversity and restoration of minerals sites in the Oxfordshire Minerals and Waste Core Strategy since at least 2007, and wish to ensure that the outcomes of this work are accurately reflected in the Core Strategy.

Continue on a separate sheet or expand the box if necessary

Please complete Part 2 of the form separately for each separate representation you wish to make, and submit all the Parts 2s with one copy of Part 1 and Part 3.

## Part 2 – Representation

Please complete this part (Part 2) of the form separately for each separate representation you wish to make.

You can find an explanation of the terms used below in the accompanying guidance on making representations.

### 2(a) State which part of the Oxfordshire Minerals and Waste Local Plan Core Strategy you are making a representation about

Part or policy no. or paragraph

Policy C7

### 2(b) Do you consider the Oxfordshire Minerals and Waste Local Plan Core Strategy is: (tick as appropriate)

- (i) Legally compliant?       Yes                       No
- (ii) Sound?                       Yes                       No

If you have answered **No** to question 2(b)(ii), please continue to question 2(c). In all other cases, please go to question 2(d).

### 2(c) Do you consider the Oxfordshire Minerals and Waste Core Strategy is unsound because it is not: (tick as appropriate)

- (i) Positively prepared
- (ii) Justified
- (iii) Effective
- (iv) Consistent with national policy

On the following pages, please set out why you think the Minerals and Waste Local Plan Core Strategy is legally non-compliant and/or unsound and any changes you are suggesting should be made to it that would make it legally compliant or sound.

**Please note** your representation should include as succinctly as possible all the information and evidence necessary to support/justify the representation and the suggested change, as there will not normally be a subsequent opportunity to make further representations based on your representation at this stage. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.

**2(d) Please give details of why you consider the Oxfordshire Minerals and Waste Local Plan Core Strategy is not legally compliant or is unsound. Please be as precise as possible.**

**If you agree that the Oxfordshire Minerals and Waste Local Plan Core Strategy is legally compliant and/or sound and wish to support this, please also use this box to set out your comments.**

In addressing development that would cause significant harm to Local Nature Reserves, Local Wildlife Sites, Local Geology Sites, Sites of Local Importance to Nature Conservation and Protected, priority or notable species and habitats it is stated that:

*‘Development that would result in significant harm will not be permitted, unless the harm can be adequately mitigated or, as a last resort, compensated for to result in a net gain in biodiversity (or geodiversity) or, if the impact cannot be fully mitigated or compensated for, the benefits of the development on that site clearly outweigh the harm.’*

This policy does not correctly apply the mitigation hierarchy as set out in policy 118 of the NPPF since it allows planning permission to be granted for development which causes significant harm to biodiversity without seeking to first avoid the impact, it only considers the need to mitigate or compensate. Paragraph 118 of the NPPF states:

*‘If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused’*

Policy C7 also allows for development which causes significant harm to biodiversity to be permitted with insufficient (or possibly no) mitigation or compensation where it is considered the benefits of the development outweigh the harm. This is also contrary to paragraph 118 of the NPPF. It would result in a net loss in biodiversity, as opposed to the net gain sought in paragraph 109 of the NPPF. The policy seems to contradict the approach outlined in the contextual text at paragraph 6.35.

This policy also needs to add the requirement for mitigation, or as a last resort, compensation for harm to developments affecting SSSIs or irreplaceable habitats where it is considered that the benefits of the development clearly outweigh the impact in that location, in order to comply with paragraph 118 of the NPPF, and in the same situations needs to seek a net gain in biodiversity in line with paragraph 109 of the NPPF.

Continue on a separate sheet or expand the box if necessary



**2(e) Please set out the changes(s) you consider necessary to make the Oxfordshire Minerals and Waste Local Plan Core Strategy legally compliant or sound, having regard to the reason you have identified at 2(c) above where this relates to soundness. You should say why this change will make the Core Strategy legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.**

The relevant sections of Policy C7 should be reworded as follows:

*'Development that would be likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other development) will not be permitted except where the benefits of the development at this site clearly outweigh both the impacts that it is likely to have on the Site of Special Scientific Interest and any broader impacts on the national network of Sites of Special Scientific Interest, **and the harm can be adequately mitigated, or as a last resort, compensated for to result in a net gain in biodiversity (or geodiversity)***

*Development that would result in the loss or deterioration of irreplaceable habitats, including ancient woodland and aged or veteran trees, will not be permitted except where the need for and benefits of the development in that location clearly outweigh the loss, **and the harm can be adequately mitigated, or as a last resort, compensated for to result in a net gain in biodiversity***'

The suggested additions ensure that the policy is compliant with the mitigation hierarchy as set out in paragraph 118 of the NPPF, and that it delivers net gain as sought in paragraph 109 of the NPPF.

*'Development shall ensure that no significant harm would be caused to:*

- Local Nature Reserves;*
- Local Wildlife Sites;*
- Local Geology Sites;*
- Sites of Local Importance for Nature Conservation;*
- Protected, priority or notable species and habitats.*

*Development that would result in significant harm will not be permitted, **unless the benefits of the development on that site clearly outweigh the harm and the harm can be adequately mitigated or, as a last resort, compensated for to result in a net gain in biodiversity (or geodiversity).***'

The inclusion of the test of whether 'benefits of the development on that site outweigh the harm' should ensure compliance with the need in paragraph 118 of the NPPF for development to avoid significant harm. The re-wording ensures that all development causing significant harm is adequately mitigated or compensated for as required in paragraph 118 of the NPPF, and the need to deliver a net gain complies with paragraph 109.

Continue on a separate sheet or expand the box if necessary.

**2(f) Written representations or oral hearing**

If your representation is seeking a change to the Oxfordshire Minerals and Waste Local Plan Core Strategy, do you consider it necessary to participate at the oral hearing part of the examination? *(tick box below as appropriate)*

No, I wish to communicate through written representations	
Yes, I wish to participate at the oral hearing part of the examination (go to 2(g))	✓

**Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated they wish to participate at the hearing part of the examination.

**2(g) If you wish to participate at the hearing part of the examination, please outline why you consider this to be necessary.**

BBOWT have extensive experience of protection and enhancement of biodiversity through the planning system within Oxfordshire and can provide specialist knowledge with regard to this subject area. We respond to planning applications which are likely to have a significant impact (negative or positive) on biodiversity and wish to ensure that the policy with regard to this is clear within the Core Strategy.

Continue on a separate sheet or expand the box if necessary

Please complete Part 2 of the form separately for each separate representation you wish to make, and submit all the Parts 2s with one copy of Part 1 and Part 3.