



West Berkshire Local Plan Review 2022-2039
Proposed Submission Representation Form

Ref:

(For official use only)

Please complete online or return this form to:	Online: http://consult.westberks.gov.uk/kse
	By email: planningpolicy@westberks.gov.uk
	By post: Planning Policy, Development and Regulation, Council Offices, Market Street, Newbury, RG14 5LD
Return by:	4:30pm on Friday 3 March 2023




This form has two parts:

- Part A - Your details: need only be completed once
- Part B - Your representation(s): please fill in a separate sheet for each representation you wish to make

PART A: Your Details

Please note the following:

- *We cannot register your representation without your details.*
- *Representations cannot be kept confidential and will be available for public scrutiny, however, your contact details will not be published.*
- *All information will be sent for examination by an independent inspector*
- *All personal data will be handled in line with the Council's Privacy Policy on the Development Plan. You can view the Council's privacy notices at <http://info.westberks.gov.uk/privacynotices>*

	Your details	Agent's details (if applicable)
Title:	Mr	
First Name:*	Neil	
Last Name:*	Bucknell	
Job title (where relevant):	Chair, conservation sub-committee	
Organisation (where relevant):	Berkshire Ornithological Club	
Address* Please include postcode:		
Email address:*	 OR conservation@berksoc.org.uk	
Telephone number:		

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**Mandatory field*

Part B – Your Representation***Please use a separate sheet for each representation***

The accompanying guidance note available at: <https://www.westberks.gov.uk/lpr-proposed-submission-consultation> will assist you in making representations.

*Your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested change(s) as there will **not normally** be a subsequent opportunity to make further representations, **further submissions will ONLY be at the request of the Inspector, based on the matters and issues they identify for examination.***

Your name or organisation (and client if you are an agent):	Neil Bucknell Berkshire Ornithological Club
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Please indicate which part of the Local Plan Review this representation relates to:

Section/paragraph:	5 – (Our Environment and Surroundings)
Policy:	SP11
Appendix:	
Policies Map:	
Other:	

1. Legally Compliant

Please see the guidance notes for an explanation of what 'legally compliant' means.

Do you consider the Local Plan Review is legally compliant?

Yes

No

X

Please give reasons for your answer:

It does not comply with NPPF policies 174 (by not fully protecting biodiversity), 179 (by not having a policy to specifically promote the identification of LWS sites or cover sites of biodiversity importance that have yet to be designated as such, or provide protection pending the formulation of a Local Nature Recovery Strategy) and 180 (by not making it clear that applications that do not comply with biodiversity policies and result in net loss of (or overall adverse impact on) any protected habitat or species, where such loss is not either prevented on-site or in exceptional circumstances by other mitigation for such habitat or species will be refused).

In applying a sequential test to applications possibly affecting designated sites, there is no requirement that the biodiversity feature for which the site has been designated should be the primary consideration in assessing whether any mitigation to be considered in "last resort" cases is acceptable – if the mitigation does not fully address the biodiversity feature or features for which the site is designated it should be refused.

There are two particular problems locally. Our experience is that there has not been an adequate (and consistently maintained) review of LWSs, so sites which are discovered to have wildlife value

remain unprotected pending their promotion, assessment and designation. The formulation of a Local Nature Recovery Strategy is still in its very early stages, and pending its completion and adoption there will be an important gap in the basis upon which the policies will be based. Unless there are policies that cover these gaps the plan cannot achieve compliance with the NPPF.

2. Soundness

Please see the guidance notes for an explanation of what ‘soundness’ means.

Do you consider the Local Plan Review is sound?

The soundness of the LPR should be assessed against the following criteria from the National Planning Policy Framework (NPPF)

Please tick all that apply:

NPPF criteria	Yes	No
Positively Prepared: The plan provides a strategy which, as a minimum, seeks to meet the area’s objectively assessed need and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where practical to do so and is consistent with achieving sustainable development		x
Justified: the plan is an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence		x
Effective: the plan is deliverable over the plan period and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground		x
Consistent with national policy: the plan should enable the delivery of sustainable development in accordance with the policies of the NPPF		x

Please give reasons for your answer:

Because it does not satisfy the requirements of the NPPF as set out in section 1 above.

In relation to effectiveness, there is currently no Local Nature Recovery Plan, which will be formulated in conjunction with the other Berkshire unitary authorities.

3. Complies with the Duty to Co-operate

Please see the guidance note for an explanation of what ‘Duty to Cooperate’ means.

Do you consider the Local Plan Review complies with the Duty to Co-operate?

Yes

No

Please give reasons for your answer:

4. Proposed Changes

Please set out what change(s) you consider necessary to make the Local Plan Review legally compliant or sound, having regard to the tests you have identified above (Please note that non-compliance with the duty to co-operate is incapable of modification at examination).

You will need to say why this change will make the LPR 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.

To cover our objections we suggest-

1 – An overriding policy on a precautionary basis to cover the position pending adoption of the LNRS and in respect of species and sites for which conservation management plans have yet to be formulated or LWS designation has not been concluded by-

1.1 - amending para (h) of policy CP11 as follows (addition shown underlined) –

Is compatible with any Biodiversity Action Plan, Local Nature Recovery Strategy and /or other strategic conservation management plans or site designations for species or habitats that have been formally adopted by the Council,

1.2 – adding a further para (i) to policy CP11 as follows-

- (i) *where such plans, strategies or designations referred to in para (h) have yet to be formulated, completed or adopted, it does not adversely affect any fauna or flora on the site or habitat or that is potentially affected by the proposed development which has been identified as having an adverse conservation status (a) by JNCC designation as having red- or amber-list status, or (b) under any emerging local conservation management plan as a species or habitat requiring conservation measures.*

2– To deal with our concerns about ensuring that any mitigation offered and implemented in exceptional cases protects the species for which the affected site is important, add a further paragraph to the end of the policy as follows-

Mitigation or Compensation in exceptional cases

Any mitigation or compensation measures proposed as referred to in paras (l), (q) and (t) above must fully mitigate the effect of the proposed development on the habitats and species which are either those for which the impacted site has been designated, or for which the site has have been identified as being significant, and should they not satisfy the council (applying a precautionary approach) that they will do so, permission will be refused.

3 – To deal with our concerns about the problems of keeping the list of LWSs up-to-date, by adding a sentence to the end of para 5.83 as follows – *The council recognises that the process of designating such sites is a continuing process, and that sites discovered by new investigations and surveys as having value, and the changing conservation status of species over time as disclosed by national and local monitoring schemes will result in further sites qualifying for consideration for designation. It will seek to review its list of sites, and take evidence of potential qualification for designation into account when considering the impact of proposed development on biodiversity.*

5. Independent Examination

If your representation is seeking a change, do you **consider** it necessary to participate at the examination hearing session(s)?

Yes

No

If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

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

6. Notification of Progress of the Local Plan Review


Do you wish to be notified of any of the following?

Please tick all that apply:

Tick

The submission of the Local Plan Review for Independent Examination	Yes
The publication of the report of the Inspector appointed to carry out the examination	Yes
The adoption of the Local Plan Review	Yes

Please ensure that we have either an up to date email address or postal address at which we can contact you. You can amend your contact details by logging onto your account on the Local Plan Consultation Portal or by contacting the Planning Policy team.

Signature		Date	28 February 2023
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Your completed representations must be received by the Council by 4:30pm on Friday 3 March 2023.