

## Part 1 – Respondent Details

<b>1(a) Personal details</b>	
<b>Title</b>	Miss
<b>First Name</b>	Elise
<b>Last Name</b>	Batelaan
<b>Job Title (where relevant)</b>	Adviser – Sustainable Development and Regulation
<b>Organisation (where relevant)</b>	Natural England
<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>	Natural England Consultation Service
<b>Line 2</b>	Hornbeam House Electra Way
<b>Line 3</b>	Crewe Business Park Crewe
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<b>Postcode</b>	CW1 6GJ
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<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) Natural England</b>
<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>	Elise Batelaan	<b>Date:</b>	30.09.15

## 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, Policy C6, Policy C8 Paragraphs 6.28,6.29,6.30
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### 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.**

Natural England considers that the Oxfordshire Minerals and Waste Core Strategy proposed submission document is not sound for the following reasons:

**Policy M10: Restoration of mineral workings**

As it is written, policy M10, regarding the restoration of mineral workings is not consistent with national policy because:

- It does not refer to the general conservation of soil resources (in addition to safeguarding Best and Most Versatile agricultural land (BMV) outlined in paragraph 143 of the NPPF).
- It does not refer to the requirement *not* to identify new sites or extensions to existing sites for peat extraction outlined in paragraph 143 of the NPPF:

*In preparing Local Plans, local planning authorities should:*

- *Put in place policies to ensure worked land is reclaimed at the earliest opportunity, taking account of aviation safety, and that high quality restoration and aftercare of mineral sites takes place, including for agriculture (safeguarding the long term potential of best and most versatile agricultural land and conserving soil resources), geodiversity, biodiversity, native woodland, the historic environment and recreation.*
- *Identify and include policies for extraction of mineral resource of local and national importance in their area, but should not identify new sites or extensions to existing sites for peat extractions.*

In addition, we do not believe the policy is effective in that it does not adequately provide for restoration *and after-use* of mineral workings to take into account the considerations set out in the policy. Restoration and after-use are inextricably linked, but not one and the same:

Restoration – the return of land following mineral extraction to an acceptable condition, whether for resumption of the former land use or for a new use.

Afteruse – the use that land, used for minerals working, is put to after restoration.

(minerals planning practice guidance, paragraph 221).

In addition, the after-use for minerals workings should be planned for at a strategic, landscape scale, not only in terms of biodiversity (paragraph 116 of the NPPF) but also in terms of landscape itself, and amenity uses in line with paragraph 114 of the NPPF:

Local planning authorities should:

- Set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure.

This should ensure a coherent approach to minerals restoration and afteruse. We do not believe this is adequately addressed in the policy as it stands, and is therefore not effective or consistent with national policy as outlined above. Suggested amendments to this policy that we believe are required to make this policy of the core strategy sound are outlined in the next section 2(e).

### **Policy C6: Agricultural land and soils:**

Natural England considers that policy C6, regarding agricultural land and soils is not consistent with paragraph 143 of the NPPF, which provides for policies to take into account safeguarding BMV land and also conserving soils resources:

*In preparing Local Plans, local planning authorities should:*

- *Put in place policies to ensure worked land is reclaimed at the earliest opportunity, taking account of aviation safety, and that high quality restoration and aftercare of mineral sites takes place, including for agriculture (safeguarding the long term potential of best and most versatile agricultural land and conserving soil resources), geodiversity, biodiversity, native woodland, the historic environment and recreation.*

Policy C6 only refers to maintaining soil quality and not preserving the potential of BMV land. Therefore we consider that the changes proposed in section 2(e), by inserting the provision for management in order to maintain agricultural land quality, as well as soil quality will bring this policy in line with paragraph 143 of the NPPF.

In addition, the phrase ‘making a positive contribution to the long-term conservation of soils’ is not clear. We propose it is changed to ‘sustainable management and use’ (changes shown in section 2(e)), which is also consistent with the wording in paragraph 6.30 of the proposed submission document. These changes are required to make the policy effective, and thus sound.

Changes proposed to paragraphs 6.28, 6.29 and 6.30 (associated with agricultural land and soils) in order to make them more effective are also proposed in section 2(e).

**Policy C8: Landscape**

As it is written, policy C8 is not entirely consistent with paragraph 116 of the NPPF. This paragraph provides for major development in Areas of Outstanding Natural Beauty (AONB) only in ‘exceptional circumstances and where it can be demonstrated they are in the public interest.’ It then goes on to outline the tests which define these exceptional circumstances. Policy C8 does follow NPPF paragraph 116 to identify that major developments within AONBs ‘will not be permitted except where it can be demonstrated they are in the public interest.’ However, it stops short of identifying exceptional circumstances or applying the test. Natural England considers that to be considered sound, this policy should incorporate this through the changes outlined in section 2(e) by following paragraph 116 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.**

We suggest the following changes to address our concerns over the soundness of the plan, as outlined in section 2(d) above:

### **Policy M10: Restoration of mineral workings**

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, and is coherent at the landscape scale. The restoration and after-use of mineral workings must take into account:

- The characteristics of the site prior to the 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;
- The conservation of soil resources;
- 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 biodiversity appropriate to the local area, supporting the establishment of a coherent and resilient ecological network through the landscape-scale creation of priority habitat;
- The conservation and enhancement of geodiversity; and
- The conservation and enhancement of the historic environment.

Planning permission will not be granted for mineral working unless satisfactory proposals have been made for the restoration, aftercare and after-use of the site, including where necessary the means of securing them in the longer term.

New sites or extensions to existing sites for peat extraction will not be identified.

Proposals for restoration must not be likely to lead to any increase in recreational pressure on a Special Area of Conservation.

### **Policy C6: Agricultural land and soils**

Proposals for minerals and waste development shall demonstrate that they take into account the presence if any best and most versatile agricultural land.

The permanent loss of best and most versatile agricultural land will only be permitted where it can be shown that there is a need for the development which cannot reasonably be met using lower grade land, taking into account other relevant considerations.

Development proposals should make provision for the management and use of soils in order to maintain agricultural land quality (where appropriate), soil quality, and sustainable management and use of soils in any restoration.

6.28 Where significant development on agricultural land is necessary, national policy is that local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. There are extensive areas of high quality agricultural land in Oxfordshire, much of which is underlain by minerals, particularly sand and gravel. Proposals for minerals development will be expected to address the impact of the development on the extent and quality of any best and most versatile (BMV) agricultural land (grades 1, 2 and 3a). Where appropriate, detailed agricultural land classification survey information should be provided. Proposals for waste development should be capable of avoiding best and most versatile agricultural land and permanent development involving the loss of such land will not normally be permitted.

6.29 The quality of the existing land will be an important factor when selecting the form of restoration and after-use of mineral workings. Where mineral extraction affects BMV agricultural land, proposals for restoration and aftercare should look to preserve the long-term potential for the land and its soils as a high quality agricultural resource in the future wherever possible. Proposals for restoration need to be realistic, however, and in some cases a return to agriculture may need to be at lower ground level due to a lack of availability of suitable inert infill material. In the floodplain the use of fill to restore mineral working must take account of national policy on flood risk (see also policies C3 and M10) and a return to agriculture may not always be possible; it may not be possible to return land to pre-existing levels and a return to agricultural land at lower ground level may not be practicable due to a high water table.

6.30 Where BMV agricultural land would not be restored after mineral extraction, proposals will need to demonstrate that the need for the mineral cannot reasonably be met on lower grade land and that there is good planning reason to justify the development in that location. Any benefit, such as a net gain in biodiversity, that may result from a different form of restoration will also be a relevant consideration. Where restoration would not be to agriculture, provision for the sustainable management and use of soils disturbed during extraction should be demonstrated, such that if required the soils would be in a state capable of supporting agriculture. This should include stripping and storage of soils in ways that maintain soil quality and safeguards BMV land so that it retains its long term capability. Where BMV agricultural land is not restored, proposals must show how alternative and beneficial use is to be made of high quality soils that are not being replaced.



**Policy C8: Landscape**

Proposals for minerals and waste development shall demonstrate that they respect and where possible enhance local landscape character, and are informed by landscape character assessment. Proposals shall include adequate and appropriate measures to mitigate adverse impacts on landscape, including careful siting, design and landscaping.

Great weight will be given to conserving the landscape and scenic beauty of Areas of Outstanding Natural Beauty (AONB) and high priority will be given to the enhancement of their natural beauty. Proposals for minerals and waste development within an AONB or that would significantly affect an AONB shall demonstrate that they take this into account and that they have regard to the relevant AONB Management Plan. Major developments within AONBs will not be permitted except in exceptional circumstances and where it can be demonstrated they are in the public interest in line with the major developments test in paragraph 116 of the NPPF. Development within AONBs shall normally only be small-scale, to meet local needs and should be sensitively located and designed.

Where adverse impacts cannot be avoided or adequately mitigated, compensatory environmental enhancements shall be made to offset the residual landscape and visual impacts.

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	X
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.

<p><b>2(g) If you wish to participate at the hearing part of the examination, please outline why you consider this to be necessary.</b></p>
Empty space for user input
<p>Continue on a separate sheet or expand the box if necessary</p>

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.