

The Lodge

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20th December 2023

**Planning Policy
Oxford City Council
St Aldate's Chambers
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Oxford
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By email only

BBOWT response to the Oxford City Council Local Plan to 2040 Submission Draft Consultation

Thank you for consulting the Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT) on the Council's Local Plan 2036 Preferred Options Consultation document. As a wildlife conservation charity, our comments relate specifically to the protection and enhancement of the local ecology in and around Oxford. Note that due to the large number of policies we are responding on it was not practical for us to complete a separate form for each one so our entire response is in this document. We have aimed to answer the relevant questions from the form for each policy we have commented on.

Extract from Form Part A:

Do you wish to speak at the examination hearings? Yes
(Please note that the Inspector will decide who to invite to speak)

Do you wish to be notified when:

the Council submit the Oxford Local Plan 2040 to the Government? Yes

the Inspector's Report is published? Yes

the Oxford Local Plan 2040 is adopted by the Council? Yes

Form Part B

Policy G1A - Protection of Green Infrastructure

"G1A: Core Green and Blue spaces

Planning permission will not be granted for development that would result in loss of, or harm to, the protected spaces identified as Core Oxford Green and Blue spaces and the important green network function they provide. These spaces are designated G1A on the proposals map."



Policy G1A. We greatly welcome the above policy wording for G1A in Policy G1 and we consider it to be **sound**.

Policy G3 Provision of new Green and Blue features – Urban Greening Factor

Policy G3. We greatly welcome this policy and we consider it to be **sound**.

Policy G4: Delivering mandatory net gains in biodiversity

We consider that the document is **unsound**. This is because we consider it is:

Not justified.

Not effective.

Not consistent with national policy.

Please tell us below why you consider the document to be unsound, not legally compliant or fails to comply with the duty to co-operate:

Whilst we welcome the inclusion of a policy on delivering mandatory net gains in biodiversity, and we welcome the vast majority of the text, we consider that the Local Plan should be seeking a minimum of 20% biodiversity net gain, as opposed to 10% biodiversity net gain. It is clearly indicated at a national level that this is an option that local authorities can pursue in Local Plans and many have chosen to do so.

Our response to the Oxford City Council Local Plan to 2040 Preferred Options Consultation included the following text:

“Biodiversity net gain (see NPPF paragraphs 174 (d) and 179 (b) and the draft Environment Bill: A policy for biodiversity net gain should be included. BBOWT asks for a minimum biodiversity net gain of 20% for development to be included in this policy. This is in line with the recommendation of Oxfordshire’s Biodiversity Advisory Group for the Oxfordshire Plan 2050 (see <https://www.wildoxfordshire.org.uk/proposed-policies-for-op2050/>). Whilst we understand that the Oxfordshire Plan 2050 is no longer being taken forward, we consider that both the Oxfordshire Biodiversity Advisory Group’s recommendations to it (see above), and the preferred policies for OP2050 remain relevant. The preferred Policy option 08 of the Oxfordshire Plan 2050 stated: *“Policy Option 08: Biodiversity Gain The Oxfordshire Plan proposes to set minimum target for biodiversity net gain across Oxfordshire to protect, enhance, restore, increase and connect the natural environment and secure measurable net gains in biodiversity. 20% biodiversity net gain - Standard benchmark for the whole of the county.....”*

We stand by this previous response and ask that it is considered in this latest consultation, and we add to it as follows:

BBOWT asks for a minimum net gain of 20% or more for each development to be included in this policy. This is in line with the Oxfordshire Local Nature Partnership publication “Oxfordshire BNG Guiding Principles” downloadable from <https://www.olnp.org.uk/partnership-publications> . The first principle states:

“1. LPAs should aim to adopt a minimum requirement for BNG of 20% or greater in the next iteration of their Local Plans. Evidence is unclear whether a 10% target will actually result in a biodiversity gain so a higher target should be set. Setting a higher target means that BNG is much more likely to be delivering meaningful gains and help meet the wider aspirations in local plans. Measuring biodiversity using an excel spreadsheet will never be an exact science, setting a higher target would help mitigate the risk that is inherent within the measurement process. When speaking of a higher target, terminology should be clear; if 20% was to be the target this is not doubling the BNG delivered, it would be raising the requirement from 110% to 120%. Research to date has shown a target of 20% to have little impact on viability, and OLNPs are ready to support LPAs to conduct viability studies to support their policies. Minerals developments are different, often resulting in significant biodiversity gains, so BNG target setting and processes need to be considered separately.”

On the same page <https://www.olnp.org.uk/partnership-publications> there is a downloadable publication of evidence compiled to support the position of requesting a minimum of 20% net gain and we ask that this evidence is used in the decision-making process.

The above request from the LNP Guiding Principles for BNG is also in line with the recommendation of Oxfordshire’s Biodiversity Advisory Group (see <https://www.wildoxfordshire.org.uk/proposed-policies-for-op2050/> . A policy of 25% biodiversity net gain was recently supported in the Examination of the Salt Cross Garden Village SPD in a nearby local authority. There are numerous local authorities that have adopted or are working towards a 20% or more biodiversity net gain policy.

Our response to the Oxford City Council Local Plan to 2040 Preferred Options Consultation also included the following text:

“BBOWT also recommends that a policy is included to ensure that all habitat retained, enhanced or created (whether it is on-site or off-site) for the purpose of achieving both no net loss, and net gain, is retained forever (e.g. in perpetuity - for at least 125 years). Otherwise the no net loss or net gain merely becomes a temporary net gain, and ultimately over time development will result in a large net loss to biodiversity.”

We stand by this text and ask that it is considered in this latest consultation. We consider that policy is required for this within policy G4.

Policy G5: Enhancing onsite biodiversity in Oxford

Policy G5. We greatly welcome this policy and we consider it to be **sound**.

Policy G6: Protecting Oxford’s biodiversity including the ecological network

We consider that the document is **unsound**. This is because we consider it is:
Not justified.
Not effective.
Not consistent with national policy.

Please tell us below why you consider the document to be unsound, not legally compliant or fails to comply with the duty to co-operate:

Whilst we welcome the inclusion of a policy on protecting Oxford's biodiversity including the ecological network and we welcome some of the text, we consider it is unsound in relation to:

- a) Irreplaceable habitats;
- b) UK priority habitats and species (or habitats and species of principal importance)
- c) Ecological Networks - Conservation Target Areas (CTAs)
- d) Ecological Networks - Nature Recovery Network

Policy G6 - Unsound tests B, C, D
(reasoning continues until site
allocation section)

We deal with each of these in turn:

- a) Irreplaceable habitats:

We are greatly concerned about the lack of policy on this and consider that it is clearly not consistent with national policy. The NPPF states with our underlining:

"180. When determining planning applications, local planning authorities should apply the following principles:

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons⁶³ and a suitable compensation strategy exists; and

Footnote 63 reads: 63 For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat."

Policy G6 does not appear to contain any policy on irreplaceable habitats, making it inconsistent with the NPPF, despite us having written the following in our response to the Oxford City Council Local Plan to 2040 Preferred Options Consultation:

"...we recommend that the Oxford City Local Plan includes policies to address the following:... Protection of irreplaceable habitats (see NPPF paragraph 180 (c). In the Oxford City context that includes lowland fen (such as Lye Valley SSSI), unimproved lowland meadow habitats (such as Oxford Meadows SAC) and ancient woodland (such as Brasenose Woods) and veteran trees. In addition to policy, a map should also be included to show these habitats;"

We stand by this text and ask that it is considered in this latest consultation. We also add to it as follows:

We consider that to meet NPPF paragraph 180 (c) then equivalent or the same wording to that used in NPPF 180 (c) should be included in Policy G6. We could not find any. We could find policy in policy G1 in relation to some of the irreplaceable habitats, e.g. *"Existing green infrastructure features Planning permission will not be granted for development resulting in the loss or deterioration of ancient woodland or ancient or veteran trees and important hedgerows except in wholly exceptional circumstances or there is a suitable compensation strategy in place."*

However, this is missing lowland fen which is included in the NPPF Glossary wording:

“Irreplaceable habitat: Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen.” And also it is important that the term “irreplaceable habitat” is used in policy as this allows cases to be made (as the NPPF definition intentionally allows as far as we understand, at least until an agreed list of irreplaceable habitats is created, by the use of the word “include” before the above list) in some circumstances for other habitats – for example we and many others would argue that some forms of lowland meadow, such as the MG4 Oxford floodplain meadows, also meet the definition of irreplaceable habitat.

In terms of the importance of lowland fen in the Oxford context we wrote the following in our response to the previous consultation:

“We also consider that a bespoke Policy is required to ensure protection of one particular habitat that Oxford City has a special responsibility to, and that is the alkaline spring-fed lowland fens found within and around the City. These lowland fen habitats are UK priority habitats, and also are irreplaceable habitats, so that the NPPF policy on irreplaceable habitats applies to them. They are found at a number of sites within the City boundaries (including Lye Valley SSSI and Rivermead Nature Park Oxford City Wildlife Site) and also outside but close to the City (including Raleigh Park LWS, Cothill Fen SAC, and Sydlings Copse SSSI). Note that the examples given are just examples and the list should not be taken as covering all sites as there are others too. The Lye Valley SSSI and other sites include a particular type of lowland fen (type M13), of which only 19.1 hectares remain in the whole of England (for context, 19.1 hectares is smaller than the area of South Park in Oxford).

This habitat cannot be recreated elsewhere as it is dependent on a combination of geology and geography with a calcareous spring-fed water source of the right quality and quantity. This occurs at only a few locations in the UK. Oxfordshire, including Oxford City, is host to several of the finest examples of these alkaline valley fens. They are the rarest habitats that Oxford City has; as such the City has a special responsibility to conserve them. The fens are irreplaceable habitats and therefore have specific protection in the NPPF.

The fens are highly vulnerable to changes in water quality and quantity which may arise from development within their catchment. They are also vulnerable to trampling damage, increases in nutrients (from dog mess and air pollution), and changes in the grazing regime (which may be inevitable due to increased recreational pressures) that may be needed at some sites to maintain the plant species that make a fen special.

Due to the exceptional rarity and vulnerability of these fens we consider that bespoke planning policy is needed to ensure their protection, either within the Local Plan itself, or through an SPD or similar.”

We stand by this recommendation for a specific policy for lowland fen and we ask that it is considered in this latest consultation. We also reference this text in the context of indicating how important it is that a complete irreplaceable habitat policy covering the full range of irreplaceable habitats including lowland fen is included in Policy G6.

In our opinion the irreplaceable habitats present in and around Oxford City include as a minimum: lowland fen, unimproved meadows/ancient grasslands, ancient hedgerows, and ancient woodland and veteran trees. There is as yet no agreed list of irreplaceable habitats but the NPPF Glossary defines irreplaceable habitats as *“Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity.”* We consider that this applies to the above habitats. The publication *Biodiversity and Planning in Oxfordshire* (<https://www2.oxfordshire.gov.uk/cms/sites/default/files/folders/documents/environmentandplanning/countryside/naturalenvironment/Wholedocument.pdf>) states:

*“There is no currently agreed list of irreplaceable habitats, but if it is taken as referring to any habitat of principal importance for which the timescale involved in completely recreating it would go beyond the period of the strategic planning cycle, then the following habitats in Oxfordshire could be considered irreplaceable:
Ancient Woodland
Ancient/veteran trees (which are often outside of ancient woodlands)
Ancient Hedgerows
Traditional unimproved meadows/ancient grasslands
Fens”*

We consider that this full list of irreplaceable habitats should be referred to in Policy G6.

b) UK priority habitats and species (or habitats and species of principal importance)

We consider Policy G6 to be unsound with respect to policy for UK priority habitats and species, otherwise known as habitats/species of principal importance. The NPPF states:

“179. To protect and enhance biodiversity and geodiversity, plans should:.....b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.”

The policy wording in relation to it in the draft Oxford City Local Plan within Policy G6 states:

*“**Other features of interest** Development should seek to retain and enhance habitats and species of principal importance for biodiversity wherever possible.”*

We consider that there is a high risk that this policy will prove to be ambiguous and as a result not likely to be effective, due to the use of phrases such as “seek to” and “wherever possible”. We do not consider it will be effective in achieving what the text in NPPF paragraph 179 aims to achieve. We consider that the wording in the previous Oxford City Local Plan to 2036 was much more effective, and sound:

*“On sites of local importance for wildlife, including Local Wildlife Sites, Local Geological Sites and Oxford City Wildlife Sites, on sites that have a biodiversity network function, and where there are species and habitats of importance for biodiversity that do not meet criteria for individual protection, development will only be permitted in exceptional circumstances whereby:
a) there is an exceptional need for the new development and the need cannot be met by development on an alternative site with less biodiversity interest; and*

*b) adequate onsite mitigation measures to achieve a net gain of biodiversity are proposed; and
c) where this is shown not to be feasible then compensation measures will be required, secured by a planning obligation.”*

Although wordings vary, this wording quoted from the 2036 Oxford City Local Plan is also more similar in general, in our experience, to the wording we commonly see in Local Plans on priority habitat and species. We consider that the same wording, or wording which is in all intents the same, as the above wording from the Oxford City Local Plan to 2036 should be used for priority habitats and species.

c) Ecological networks – Conservation Target Areas

We consider that Policy G6 is unsound due to insufficient policy on Ecological Networks. Our response to the Oxford City Council Local Plan to 2040 Preferred Options Consultation included the following text:

“Protection and restoration of ecological networks (see NPPF paragraphs 174 (d), 175, 179 (a) and 179 (b). In the Oxford City context such ecological networks includes, in addition to the Oxford Wildlife Corridor network already referred to above, the following:

Conservation Target Areas (CTAs)

<https://www.wildoxfordshire.org.uk/biodiversity/conservation-target-areas/ctas-and-planning/>

The NRN builds on but does not replace the existing CTA network. Policy should be provided for CTAs, of which there are several in Oxford – see: <https://www.wildoxfordshire.org.uk/biodiversity/conservation-target-areas/oxfordshires-ctas-to-download/> ;

Policy should be provided in the Local Plan for all of the above.”

We stand by this previous response and ask that it is considered in this latest consultation, and we add to it as follows:

The Conservation Target Areas are the very long-standing core of the ecological networks referred to in the NPPF. The majority of Local Plans of local authorities in Oxfordshire have been including CTAs in them for many years and we consider such policy is essential to comply with the above referred to paragraphs in the NPPF. We would recommend that equivalent policy wording is used in Oxford City as is used in Core Policy 13 of the Cherwell District Council Reg 18 draft Local Plan, or the equivalent Conservation Target Area policy in the previous, fully adopted Cherwell Local Plan.

d) Ecological Networks - Nature Recovery Network

We consider that Policy G6 is unsound due to insufficient policy on Ecological Networks. We consider policy is needed on the Nature Recovery Network, which alongside CTAs, represent the

main ecological networks as referenced in paragraph 179 of the NPPF. The draft NRN can be viewed at:

<https://www.wildoxfordshire.org.uk/oxfordshires-nature/oxfordshires-nature-recovery-network>

From this page further pages can be viewed including background information, a map of Oxfordshire's NRN, and proposed planning policy for the NRN. This includes the recommendations of Oxfordshire's Biodiversity Advisory Group for planning policies for the NRN. BBOWT supports these recommendations.

The NPPF states as a footnote on page 51: *"62 Where areas that are part of the Nature Recovery Network are identified in plans, it may be appropriate to specify the types of development that may be suitable within them."*

Our response to the Oxford City Council Local Plan to 2040 Preferred Options Consultation included text requesting planning policy on the Nature Recovery Network.

Site Allocations

Policy SPS13 Land at Meadow Lane – page 217

We consider that the document is **unsound**. This is because we consider it is:

Not justified.

Not consistent with national policy.

Please tell us below why you consider the document to be unsound, not legally compliant or fails to comply with the duty to co-operate:

We oppose this site allocation due to:

- a) impact on the high biodiversity interest of the site itself, particularly its invertebrate interest and the grassland habitat;
- b) its potential hydrological impact on the Iffley Meadows SSSI.

Policy SPS15: Redbridge Paddock – page 220

We consider that the document is **unsound**. This is because we consider it is:

Not justified.

Not consistent with national policy.

Please tell us below why you consider the document to be unsound, not legally compliant or fails to comply with the duty to co-operate:

We have commented on this site before. Whilst the proposed allocation site is not subject to a nature conservation designation it has considerable conservation interest (e.g. orchids, otter, kingfisher). It is also located adjacent to the nationally designated Iffley Meadows SSSI, which BBOWT manages. The SSSI is a fragile site comprising lowland grassland, which suffers under increased pressure from visitors. BBOWT use grazing animals to manage the SSSI, which is

essential to maintain this important habitat, however, there is a real risk that increased disturbance and indirect recreational pressure might make the management of this site untenable over time, resulting in the decline of the site.

This site allocation also raises concerns with regard to indirect impacts on the SSSI by affecting hydrological flows, increased disturbance, nutrient enrichment etc.

In combination with the Iffley Meadows SSSI the site provides a vital ecological network within the ring-road that would be hugely impacted by development upon the site.

We oppose this site allocation for reasons both of its intrinsic nature conservation interest, its vital role in the Oxford ecological network and due to potential ecological impact on the Iffley Meadows SSSI.

Policy SPE6 Churchill Hospital – page 246

We consider that the document is **unsound**. This is because we consider it is:

Not justified.

Not consistent with national policy.

Please tell us below why you consider the document to be unsound, not legally compliant or fails to comply with the duty to co-operate:

We have previously commented on this site. The site adjoins the Lye Valley, which is designated as a Local Wildlife Site (LWS), Site of Special Scientific Interest (SSSI) and Local Nature Reserve (LNR) respectively. Lye Valley comprises a number of extremely rare habitats, plants and features including tufa springs and rare fen habitats, all of which are sensitive to hydrological changes. It has been found that even small developments in the area have the potential to adversely affect the hydrology. We are therefore concerned about the potential direct and indirect impacts (e.g. hydrology, recreational impacts) development on the meadow might have on the condition and nature conservation interest of the Lye Valley SSSI and LWS.

We welcome that the policy recognises the importance of maintaining hydrological flows and that development will be required to fully assess impacts on surface and groundwater flows, and use efficient SUDS. We would, however, consider it important that hydrological studies are not only carried out as part of a specific development proposal but that the Council also ensures that water catchment/ hydrological flows study is produced for the Lye Valley to enable a better understanding of the valley's catchment so that it can be protected. This is of relevance to all developments in the area e.g. site allocation SPE7 (Nuffield Orthopaedic Centre) but also windfall sites that might come forward during the Local Plan period.

We welcome that the policy requires a buffer to the SSSI during construction however such a buffer should not only be provided with regard to the SSSI but also the adjacent LWS. It should also be applied not only during construction but also during operation. Providing a wildlife-rich buffer will not only help to protect the conservation interest of the Lye Valley but also offers an opportunity for providing a wildlife-rich space for hospital patients and staff in support of the health

& wellbeing agenda. This will be especially effective if complimented by an attractive integrated green infrastructure network throughout the site.

In line with the latest Local Plan policy proposal and good practice any development should also achieve a net gain in biodiversity, which could potentially be achieved through appropriate management of the adjacent Oxford City Wildlife Site or other nearby habitats of nature conservation interest.

We consider that the wording should be amended to reflect the comments above.

Policy SPE 10 Hill View Farm and Policy SPE 11 Land West of Mill lane – page 259

We consider that the document is **unsound**. This is because we consider it is:
Not justified.
Not consistent with national policy.

Please tell us below why you consider the document to be unsound, not legally compliant or fails to comply with the duty to co-operate:

We have previously commented on these sites raising our concerns with regard to their allocation. Both sites are not subject to any designations but are a short distance from Almonds Farm & Burnt Mill Fields LWS, which includes rare lowland fen habitat, an irreplaceable habitat as referred to in policy 180 (c) of the NPPF. In addition, the fields to the west of the development sites comprise the compensation for the significant loss of nationally rare MG4 grassland habitat caused by the Barton Park development.

We are greatly concerned about the potential impacts the development might have on the conservation interest in the area. Lowland fens and MG4 grasslands are dependent on hydrological flows, low nutrients and appropriate management. We consider that these site allocations are unsound and should not be taken forward.

Thank you for consulting us. We hope that these comments are useful. Should you wish to discuss further any of the matters raised, please do not hesitate to contact us.

Yours sincerely

Neil Rowntree

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