


**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: <a href="http://consult.westberks.gov.uk/kse">http://consult.westberks.gov.uk/kse</a>
	By email: <a href="mailto:planningpolicy@westberks.gov.uk">planningpolicy@westberks.gov.uk</a>
	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cannot be kept confidential and will be available for public scrutiny, however, your contact details will not be published.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:*	Simon	
Last Name:*	Pike	
Job title (where relevant):	Chair	
Organisation (where relevant):	Mid and West Berkshire Local Access Forum	
Address* Please include postcode:		
Email address:*		
Telephone number:		

\*Mandatory field

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

*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):	Mid and West Berkshire Local Access Forum  This representation constitutes formal advice from the Mid and West Berkshire Local Access Forum. The Secretary of State (and his Executive Agencies) and West Berkshire Council are required, in accordance with section 94(5) of the Countryside and Rights of Way Act 2000, to have regard to relevant advice from this Forum in carrying out its functions.
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**Please indicate which part of the Local Plan Review this representation relates to:**

Section/paragraph:	
Policy:	SP10 (Green Infrastructure)
Appendix:	
Policies Map:	
Other:	Requirement for an additional policy

**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

☐

*Please give reasons for your answer:*

It is beyond the remit of the Forum to give an opinion on this question.

## 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
<b>Positively Prepared:</b> 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		
<b>Justified:</b> the plan is an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence		✓
<b>Effective:</b> 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		
<b>Consistent with national policy:</b> the plan should enable the delivery of sustainable development in accordance with the policies of the NPPF		✓

Please give reasons for your answer:

Paragraph 100 of the NPPF (July 2021) states: "Planning policies and decisions should protect and enhance public rights of way and access....".

In the Regulation 18 consultation, the Forum proposed the addition of a specific policy on Public Rights of Way, based closely on the policy on Public Rights of Way in the West Berkshire Minerals and Waste Local Plan (version adopted by the Council on 1 December 2022, Policy 23; page 47 – reproduced below). In its response, the Council said:

"The Council has considered the inclusion of a standalone policy on public rights of way but feels there is adequate legislation for rights of way outside of the Local Plan process." (see pages 638 and 640 of the Consultation Statement).

The Forum believes that this conclusion is unsound, for two reasons:

1) This is inconsistent with the Minerals and Wastes Local Plan; if there is "adequate legislation for rights of way", then there would be no need for a policy in the Minerals and Waste Local Plan.

2) The legislation relevant to public rights of way provides only limited protection of the ability to use that route (i.e. to 'pass and repass'), and in general no protection to maintaining the character of the right of way – the surrounding environment and the views from it.

The principal legislation relevant to public rights of way (PROW) is:

- Sections 41 and 130 of The Highways Act 1980: Section 41 places a duty on the highway authority to maintain the surface of a PROW, and Section 130 gives it a duty to prevent it from being obstructed. However, these duties only extend to the legal width of the PROW.

- Part XIII of The Highways Act 1980: This contains provisions for the diversion, extinguishment or 'stopping up' of a public right of way.

- The Town and Country Planning (General Permitted Development) (England) Order 2015: This gives permitted development rights for erection of a fence of up to 2m height, immediately adjacent to a PROW.

There are several locations in West Berkshire where a public right of way has been subsumed into the road network of a development, and has in effect become an urban footway. The photograph shows one example in Thatcham, where public footpath THAT/8/3 runs along the footway of Cowslip Crescent.





This is the text of the Public Rights of Way Policy in the approved version of the Minerals and Waste Local Plan:

## Public Rights of Way

### Policy 23

#### Public Rights of Way

Minerals and waste development proposals will be permitted where the proposals do not adversely affect the Public Right of Way (PROW) network. When considering the adverse impacts consideration will be given to whether:

- Satisfactory diversions to Public Rights of Way can be provided that are both convenient and safe for users of the Public Rights of Way;
- In the case of temporary minerals and waste development, the proposals include the creation of an acceptable alternative route both during operations and following restoration of the site;
- Where Public Rights of Way are to be reinstated this should be done as soon as is practicable; and
- Opportunities are proposed that would secure appropriate, improved access, to the countryside.

**5.62** There are 1183 km (735 miles) of public rights of way in West Berkshire, compared to a Council road network of 1272 km (790 miles). Public rights of way are made up of the following:

- 61% public footpaths, over which the right of way is on foot only.
- 17% public bridleways, for use by the public on foot, bicycle and on horseback or leading a horse.
- 8% restricted byways, used as bridleways but with the addition of non mechanically propelled vehicles, thereby giving a right of access for horse-drawn carriages.
- 14% byways open to all traffic, for use by all the above plus vehicular traffic, with the main use being by walkers and horse-riders.

**5.63** Public Rights of Way play an important role in enabling access to the countryside and the consequential benefits on health and wellbeing. Given the extent of the public rights of way in West Berkshire, proposed minerals and waste sites will often be located close to rights of way and mineral deposits are often close to, or crossed by rights of way.

### 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:*

It is beyond the remit of the Forum to give an opinion on this question.

### 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.*

A specific policy on Public Rights of way should be added to the Local Plan:

Public Rights of Way

Development proposals will be permitted where the proposals do not adversely affect the Public Right of Way (PROW) network and, where possible, enhance it. When considering the adverse impacts consideration will be given to whether:

- The proposal maintains the character of the PROWs within the development or adjacent to it;
- The proposal maintains the existing route during construction or, when this is impossible, propose an acceptable alternative route;
- PROW should be reinstated as soon as is practicable; and
- Opportunities are proposed that would secure appropriate, improved access, to the countryside.

The text that has been added to Policy SP10 (Green Infrastructure) complements this proposal for a new policy, and should be retained.

### 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:*

The Forum wishes to have the opportunity to explain the importance of public rights of way, and how a specific policy is necessary to have a specific policy in order to protect their character. This is particularly important for any new sites that are proposed during the plan period, as these will not have a site policy in the Local Plan that addresses concerns that are specific to that site.

We might also wish to comment on any West Berkshire Council response to the Forum's submission relating to the legislation applicable to Public Rights of Way.

*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

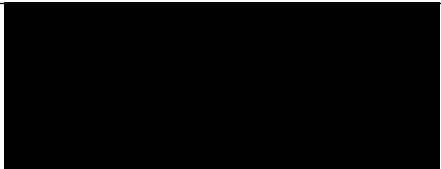
**Do you wish to be notified of any of the following?**

*Please tick all that apply:*

*Tick*

The submission of the Local Plan Review for Independent Examination	<input checked="" type="checkbox"/>
The publication of the report of the Inspector appointed to carry out the examination	<input checked="" type="checkbox"/>
The adoption of the Local Plan Review	<input checked="" type="checkbox"/>

*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.*

<b>Signature</b>		<b>Date</b>	Approved by a meeting of the Mid and West Berkshire Local Access Forum on 25 <sup>th</sup> January 2023
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**Your completed representations must be received by the Council by 4:30pm on Friday 3 March 2023.**