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Dear Mr Shirm

Sandwell Draft Local Plan Consultation – Environment Agency response

Thank you for notifying us of the consultation on your draft Local Plan. We welcome the opportunity to comment. Secondly our thanks for allowing us more time to consider the draft Local Plan and its evidence base.

Overall, we are pleased to see Sandwell's environment prioritised and championed throughout the comprehensive range of policies whether strategic or detailed, tackling climate change, sustainable development, biodiversity, rivers, flood risk, waste, water resources and pollution. We have made recommendations for additional text where we think appropriate. We would like to see 'water quality' addressed within a policy context as this is currently missing from the plan. The evidence base will require further work and we have advised as to next steps to help ensure a smooth transition to the next stage of consultation. There is a reference list with links to documents in the appendix.

We would be happy to discuss our comments further. If you have any queries please contact me.

Yours sincerely

Keira Murphy
Planning Specialist

Evidence Base

Sequential Test

Before the next consultation on the plan, the Council will need to decide how to present evidence that the strategic site allocations have passed the Sequential Test. It will need to be obvious how the Sandwell Local Plan has met the requirements to apply the Sequential Test strategically as outlined in the National Planning Policy Framework Paragraphs 167-171 inclusive. We specifically highlight paragraph 168;

“The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.”

The Black Country Councils Strategic Level 1 Flood Risk Assessment (2020) sets out an objective of the SFRA in helping the Councils to undertake the Sequential Test i.e. Identify areas where further assessment of flood risk is needed and provide sufficient detail to enable the Sequential Test to be applied to inform allocations of land for development (page iii). One of the recommendations (page 109) is to locate new development in areas of lowest risk, in line with the Sequential Test, by steering sites to Flood Zone 1. If a Sequential Test is undertaken, and a site at flood risk is identified as the only appropriate site for the development, the Exception Test shall be undertaken.

We have reviewed the Spatial Strategy Paper, Local Site Assessment Report including Appendix D Site Assessment Forms and the Sustainability Appraisal as we had thought one of these documents would explain how the Sequential Test has been applied and what conclusions were drawn. We acknowledge that two sites (North and South of Tamebridge Parkway Station) had been rejected due to the presence of Flood Zone 3 as part of the Local Site Assessment screening process. However, unfortunately there doesn't seem to be a clear or consistent approach to how these assessments have considered flood risk or clear conclusions as to whether this means the Sequential Test has been passed or not. There also appear to have been some missed opportunities to have incorporated the aims of the Sequential Test either within one or more of the growth strategies as a distribution of spatial growth consideration, or the Sustainability Appraisal SA Objective Framework and subsequent appraisal of sites.

We acknowledge the difficult balancing act the Council must grapple with and the preferred growth strategy of 'Balanced Green Growth' having appraised the options will likely have some positive effects. However, a number of site allocations are proposed in areas of Flood Zone 2 (medium risk) and/or Flood Zone 3 (high risk) and will now need evidence to (a) demonstrate whether they have passed the Sequential Test (there are no alternative sites at a lower risk of flooding) and (b) be assessed by a Level 2 SFRA. The Council will need to ensure this is considered and demonstrated prior to the next iteration of the Local Plan, either as an update to the Sustainability Appraisal or as a standalone document.

Level 2 Strategic Flood Risk Assessment

The Black Country Councils Level 1 SFRA (2020) recommends (section 10.3.1) that a Level 2 SFRA should be undertaken to further inform the site allocations and development of local plan policies. It also enables the Council to address paragraphs 169 and 170 of the NPPF which relate to the Exceptions Test. The Level 2 assists with part (b) of the Exceptions Test, in demonstrating that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk

overall. The Level 2 SFRA and its more detailed assessment of the site-specific risk including residual risk will help the Council determine the overall deliverability and acceptability of the site allocation, and what development will be possible within the sites. It will need to demonstrate that any potential mitigation measures could protect the site and would not increase flood risk elsewhere taking account of the revised climate change guidance. This may require the running of new or additional flood models in line with the EAs flood modelling guidance. The Council will need to ensure this is considered and demonstrated prior to the next iteration of the Local Plan. The SFRA consultants will need to screen sites requiring a Level 2 Assessment. We will email you separately a list of sites we think would potentially require a Level 2 Assessment for your information.

Black Country Councils Water Cycle Study Phase 1 Scoping (2020)

Our concern is that since the Phase 1 was published, Severn Trent Water and South Staffordshire Water have been preparing and are in an advanced stage of developing their new and latest Water Resources Management Plan (WRMP24) and Drainage and Wastewater Management Plans. The data and assumptions relied on in respect of available water supplies, sustainable abstraction and impact of sustainability reductions to licences, wastewater capacity and climate change data have now changed. The study should be updated to reflect these latest plans and the water companies approached again for their input. The Council will need to be confident that the Sandwell Local Plan chosen growth strategy (and strategic sites) both in terms of distribution and timing can be adequately served by both water resources and wastewater infrastructure and considering the wider cross-boundary service needs of the neighbouring districts.

- **Water resources**

In addition, some of our plans and strategies have been updated. Our West Midlands Abstraction Licencing Strategies (ALS) have been updated since 2020. The Tame Anker and Mease ALS was updated and republished in June 2022, Worcestershire Middle Severn ALS in July 2022 and Staffordshire Trent Valley ALS in July 2021. Whilst the outcomes on water availability designations have not changed, some of the assessment points (e.g. Worcestershire Middle Severn ALS) and Common End Date (CED) (Staffordshire Trent Valley ALS) have changed.

The River Basin Management Plans have also been updated with a 2022 online version and has water efficiency as a key measure. As of July 2021, Severn Trent Water and South Staffs Water are now classified as operating in seriously water stressed areas (excluding Chester Water Resource Zone). Having said that we support the recommendations on water efficiency for new developments which have informed your draft Policy SDM2 Development and Design Standards. Whilst our plans and strategies have been updated, the primary reason for reviewing the study is to consider the latest water company plans as stated above.

- **Water quality**

Sandwell district is served by two Wastewater Treatment Works: Minworth WwTW and Roundhill WwTW. Given the additional growth proposed in the Local Plan it is important that this growth can be accommodated by the wastewater network and receiving Wastewater Treatment Works without risking deterioration of the receiving waterbodies in the district and beyond. Chapter 7 on Wastewater Treatment assesses the headroom capacity for both WwTW and has classed them as 'green' i.e. having significant headroom capacity and no other constraints. However, Figure 7.16 which shows the summary map of headroom based on quality assessment suggests that for most of Dudley and Sandwell the classification is 'amber' stating 'limited headroom based on quality assessment.' It is important that any discharge consent implications are discussed with us at an early stage, and any delays that might prevent

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development being accommodated within a catchment area due to permit restrictions or other are clearly indicated. If phasing of development or restrictions are necessary within a particular catchment area as a mitigation measure this should be outlined.

We concur with the conclusions within chapter 9 that a further assessment of the impact upon water quality from increased wastewater discharges should be undertaken as part of a Phase 2 Outline Study. This could also incorporate a review of the latest data from Severn Trent's Drainage and Waste Water Management Plan.

We are concerned there is very limited reference to water quality within the draft Local Plan across a range of relevant policies. The Water Framework Directive classification of water bodies across Sandwell is 'moderate.' Treated effluent discharges from WwTW, discharges from sewer outfalls and urban and transport runoff will all have a bearing on the waterbodies overall classification and the reason it does not currently achieve 'good' status or potential.

Policy SCC5 on Sustainable Drainage has missed an opportunity to prefer sustainable drainage systems that improve water quality in addition to the conservation and enhancement of biodiversity. It is important that the recommendations from the Water Cycle Study are considered, for example, for the Minworth catchment where a combined sewer system exists, there could be opportunities for the separation of surface water through suitably designed SuDs. We strongly recommend the Council include a policy addressing the strategic infrastructure of waste water, that development will only be permitted where adequate waste water infrastructure and capacity exists, including requirements for mitigation such as phasing. This should be based on recommendations from the Phase 2 WCS when available. Policy DLP48 Water Quality and Groundwater Protection Zones from the draft Dudley Local Plan provides a good working example where it addresses the hierarchy for foul drainage connection and unacceptable risks to quality or quantity of a water body will not be permitted.

Black Country Waste Study Update 2023

Our WDIs are updated annually, and the latest data is the 2022 dataset (for calendar year 2021) is now available. References in this study to 2021 WDI presumably refers to the 2020 data. We recommend checking the latest data and revising figures or clarifying accordingly.

Draft Local Plan Policies

Policy SDS7 Green and Blue Infrastructure in Sandwell

It is positive that the policy recognises rivers, canals and other waterways (as blue infrastructure) in combination with green infrastructure elements. The watercourses in Sandwell include the River Tame, Birmingham Canal, Hobnail Brook, Tipton Brook, Swan Brook, Dudley Canal Netherton Tunnel Branch, Whiteheath Brook, York Road Brook to name some of the main surface water bodies. The overall Water Framework classification of waterbodies in the Sandwell district is moderate, with the aim to achieve good ecological potential by 2027 or alternate date.

Except for parts 1 and 2 of the policy, the remainder of the policy is tipped towards improving green infrastructure. We would like the Council to consider how this policy can be rebalanced in order that 'blue infrastructure' is also given equal or additional weight. Restoring and enhancing the river network as part of development opportunities in Sandwell will help the Council deliver the Humber and Severn River Basin Management Plan objectives, as well as providing a strategic framework for other policies in the plan such as Policy SCC4. Whether restoring a heavily modified channel, breaking a river out of its culvert, creating in-channel habitat such as reeds and wetlands or enhancing a river corridor – all these activities will help to improve blue

infrastructure alongside achieving other biodiversity and water quality objectives. Ultimately, both blue and green infrastructure are needed to work in harmony with each other to restore habitats and over time establish good healthy connectivity of habitats and green spaces across the district.

For example, part 3 of the policy could be revised to state “Development in Sandwell will be expected to maintain and where possible enhance the existing network of green and blue infrastructure across the borough.

Policy SNE2 Protection and Enhancement of Wildlife Habitats

We welcome the policy and its requirements for achieving Biodiversity Net Gain (BNG) as part of developments in Sandwell. The Humber and the Severn River Basin Management Plans are a key evidence base to identify ways in which water-related habitats and biodiversity can be created and enhanced for water bodies across the district. The BNG guidance refers to RBMPs as an important source of information for achieving BNG for the water environment. Therefore, we recommend the policy acknowledges the contribution BNG will be expected to make to creating water-related biodiversity credits where the watercourse metric is required for a planning application. River restoration, de-culverting, removal of redundant structures from main rivers, creating wildlife-rich corridors to buffer watercourses and sensitive native planting are all likely to be elements that can contribute to an applicants biodiversity gain plan and achieve credits.

We also recommend the Council considers the inclusion of the water environment in the list of potential sites for Biodiversity Net Gain credits. We are likely to support the production of the Local Nature Recovery Strategy so that the priorities for nature recovery capture the water environment opportunities.

Policy SCC1 Increasing efficiency and resilience

We support part (e) of the policy where it proposes to minimise the impact of surface water drainage on drainage systems by considering grey water recycling and rainwater harvesting. Droughts are becoming more common. This is also beneficial to reduce the districts reliance on potable water supplies, using water resources sustainably and climate change resilience.

We support part (i) of the policy in requiring that applications should promote circular economy outcomes and seek to reduce whole life-cycle carbon emissions of development proposals by considering the reuse of existing resources. We agree that buildings need to support a circular economy model where wastes can be segregated and sorted to allow materials to be conserved, reused or remanufactured. The construction sector can be a significant consumer of circular materials, not just concrete and metals, but also composite materials derived from plastics, waste wood, recycled plasterboard, insulation, etc.

We are advocating the adoption of ‘Whole Life’ plans (or ‘Passports’) for all buildings to reduce energy, conserve water and control carbon emissions and waste. This applies not only during construction but during use, maintenance, refurbishment and enlargement, repurposing and at end-of-life. There is also the scope to require building adaptability so developments can be adapted over time according to changing needs, such as converting redundant office or retail premises into accommodation or storage.

Policy SCC4 Flood Risk

Overall, we think the policy is robust and has considered the recommendations of the Black Country Councils Strategic Flood Risk Assessment (2020) particularly with regard to its

protection of the functional floodplain and seeking to achieve wider betterment such as a reduction in flood risk downstream with the policies detail on assessment and mitigation requirements. The strength of the policy is necessary given Sandwell's flood risk characteristics: a combination of densely populated urban areas which are in places, steeply sloping leading to rapid surface water runoff and a district criss-crossed by many watercourses both main and ordinary many of which are heavily modified. Therefore, it's likely we would be able to support this policy as it is currently drafted, however, we have made some suggestions below as to how it can be improved.

We also strongly support the requirement for no built development within ten metres of the top of bank of a main river. Although this is more than the minimum of eight metres outlined within the SFRA, with the current onset of climate change, there is a need for greater resilience. Opportunities should be sought to make space for water to accommodate climate change as set out in the SFRA. Other Councils have adopted similar policies such as Policy S27 in Dudley's Borough Development Strategy (2017). Where watercourses are heavily modified the space provided will allow for restoration, reconnection with the floodplain and the provision of a green corridor. Natural watercourses move through their landscapes over time via the process of erosion and deposition, and it makes practical sense to allow additional space for this rather than risk future emergency remedial measures.

The Sequential Test requirements for planning applicants are clear, based on the SFRA recommendations, and will enable the Council to make decisions on the acceptability of the Sequential Test at the planning application stage.

Although this policy mentions culverts, the removal of weir structures where possible should also be prioritised as this would likewise decrease flood risk and help re-naturalise the watercourse. In general, removing redundant hardstanding and replacing with vegetation would also improve flood risk from surface waters. Many watercourses in the district and beyond are hindered by obsolete structures such as weirs, and we have specific measures outlined in the River Basin Management Plan to remove these where possible and feasible.

The policy justification text should specifically reference the SFRA and summarise the conclusions drawn from this assessment for the Sandwell district (where not already covered in the text). The policy justification text and/or the SFRA could make specific reference to the 'Tipton and Swan Brook Flood Risk Management Scheme' currently under development as this is relevant to part 15 (b) of policy SCC4 (provision of partnership funding contributions).

Policy SCC6 Renewable and Low Carbon Energy and BREEAM Standards

We support the BREEAM standards for non-residential developments of 1,000 sqm gross or more to achieve BREEAM Very Good or Excellent including full credits for category Wat 01 (water efficiency).

Policy SHO10 Accommodation for Gypsies, Travellers and Travelling Showpeople

Permanent Gypsy and Traveller communities can be particularly vulnerable to the risks from flooding. We recommend the following wording be added to section 4:

The site should ensure that it is safe from flood risk and proposals do not increase flood risk for others in accordance with Policy SCC4.

Policy SDM2 Development and Design Standards

We support the policy requirement to achieve the lower water efficiency standard of 110 litres per person per day, as set out in Part G2 of the Building Regulations. We agree with section Cont/d..

15.26 of the Justification text that this standard is justified given Severn Trent Water (apart from Chester Water Resources Zone) now operates in an area classed as seriously water stressed as of July 2021. This would also be in the spirit of paragraph 158 of the NPPF where it stresses the need to take into account the long-term implications including water supply and support appropriate measures to ensure the future resilience of communities.

The focus of building design can often be on energy efficiency and water consumption. However, reducing waste from occupation and use can include improved design and provision for sufficient waste storage and sorting on site. Designing for waste can make recycling easier and cover a wider range of waste items (i.e. Waste Ergonomics the right type of bin in the right location). For example, designing where food waste collections or other specific waste streams such as Waste Electronic and Electrical Equipment (WEEE) and Batteries are established. Building design can also address accessibility considerations around handling waste to help the elderly, infirm or disabled residents move bags or bins easily, especially when segregating waste. Building design can also help to minimise problems such as fly tipping in insecure communal areas. This might also be relevant for policy SCC1.

Policy SWA2 Waste Sites

We welcome the general principles of this policy. We recommend sections 1 and 2 of the policy consider safeguarding process and remanufacturing facilities that can consume waste to supply useful recovered raw materials and new products. This would help in implementing a Circular Economy as mentioned earlier in paragraph 13.11. In relation to this promoting traditional disposal facilities up the Waste Hierarchy into recovery capacity, for example, adding a pre-sorting line to a waste to energy facility or allowing a skip-waste sorting operation at a closed landfill would be beneficial.

We welcome paragraph 3 of the policy in principle in the aim to avoid potential conflict between the uses of an existing waste site with proposals for housing and other sensitive uses by not permitting (with exceptions). However, we suggest the term 'near to' is not very precise and the policy could be made more robust by providing an indicative minimum distance. The proximity may vary depending on the source and receptor, and it's worth noting that anaerobic digestion facilities produce gases very similar in nature to landfill gas. Please consider the Environment Agency guidance relating to development near landfill sites due to the hazards of landfill gas migration as well as amenity impact.

References

Links to documents

- [Water stressed areas – 2021 classification - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/612212/Water_stressed_areas_-_2021_classification.pdf)

- Severn Trent now has a Drainage and Wastewater Management Plan: [Drainage and wastewater management plan | Our plans | About us | Severn Trent Plc](#)
- Environment Agency guidance landfill and waste sites: [Groundwater protection position statements - GOV.UK \(www.gov.uk\)](#)
- Severn Trent Draft Water Resources Management Plan 2024 [Water resources management plan | Our plans | About us | Severn Trent Plc](#)
- South Staffordshire Water Draft Water Resources Management Plan 2024 [Water Resources Plan 2025-2050 launched \(south-staffs-water.co.uk\)](#)