



Outlook

FW: Sandwell Local Plan - Response to Representations made at Reg19 Stage - Environment Agency comments ENVPAC/1/WMD/10106

1 attachment (2 MB)

Sandwell Local Plan Sequential Test - Update Jan 2025 Final.pdf;

From: Murphy, Keira <[REDACTED]>

Sent: 20 February 2025 14:20

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: Sandwell Local Plan - Response to Representations made at Reg19 Stage - Environment Agency comments ENVPAC/1/WMD/10106

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Hi [REDACTED]

I've reviewed the Sandwell Local Plan Sequential Test Update Jan 2025, the Level 2 Strategic Flood Risk Assessment and information on the additional site allocation Part of Rowley Regis Golf Course.

The evidence base work is sufficient to address our concerns with regards to soundness. There are some minor errors to less-moderate issues of significance with the documents, so if there's an opportunity to incorporate amendments, I'd recommend this. I am prepared to enter a Statement of Common Ground with yourselves.

This review is undertaken as part of our cost recovery agreement ENVPAC/1/WMD/10106. Would you be able to send me the purchase order number as soon as you're able to?

Sandwell Local Plan Site Assessment Report Appendix E: Flood Risk Sequential Test

Our interest is primarily the sites with fluvial flood zones 2 and 3 so we have focussed our attention on the following sites within the Sequential Test Table 1:

- SH2 – Land adjacent to Asda Wolverhampton
- SH5 – Mill Street, Great Bridge
- SH16 Cradley Heath Factory Centre, Woods Lane, Cradley
- SH18 Friar Park
- SH28 Friar Street, Wednesbury
- SH35 Rattlechain Site Land to the north of Temple Way
- SH36 Land between Addington Way and River Tame, Temple
- SH41 North Smethwick, Canalside
- SH59 Beever Road
- SM2 Lion Farm
- SEC17 Legacy 43, Ryder Street
- SEC1-8 Roway Lane, Oldbury

Our main comment relates to the text explanation used in the column headed by the question 'Can development be steered towards an area at lower risk?' The answer given for each of these sites is wording along the lines of "N/A – whilst there is a risk of xxx and Flood Zone 2/3, this represents a very small proportion of the site and the majority of the site is located in an area at low risk of flooding, etc." I think this reveals a lack of understanding of how the Sequential Test should be applied at strategic level. Even if sites have enough areas of low flood risk to locate the built development within the site boundary, the Sequential Test at the local plan level is more about the comparison between reasonably available site allocations. If the Council has already made a reasonable attempt to select site allocations at the lowest risk of flooding when considering all the site allocations, then that is basically the answer to this question. For example, Dudley's Sequential Test October 2024, gives the following explanation for some of their sites:

The Council has identified all reasonably available sites that have a lower risk of flooding from all sources in the proposed site allocations. It is not possible to accommodate the proposed development in a more suitable area with lower flood risk, as all lower risk sites have already been identified for other development or are not available.

The wording N/A does suggest that the Council doesn't think the question is relevant because of the ability to apply the sequential approach on site, but it is still relevant. However, under the last column 'Sequential Test Passed?' the Council has clearly stated the Sequential Test is passed and this is further confirmed in the introduction section 1.3 "In summary, the Council considers the Sequential Test and Exceptions Test to be passed for all the proposed site allocations in the draft Local Plan." Ideally, rather than annotating each site allocation in Table 1, in section 1.3 it would be good to have this clarified and confirmed, that for sites with fluvial and surface water risk, it's not possible to accommodate to other lower risk sites as all of those sites have already been identified or are not available (if indeed the Council is able to confirm that).

Also, under the **Exceptions Test** column the answer is stated as no *unless* the site has been taken forward for L2 SFRA assessment. We aren't sure this is correct. If the site has even a small proportion of flood zone 3 technically that would require the Exceptions Test as although unlikely there could be more vulnerable development proposed within that zone. Even if these sites have not been selected for L2 assessment, the Exceptions Test would be applicable at the planning application stage if the applicant chooses not to steer all built development to areas of flood zone 1. We understand this was a similar approach to Dudley's Sequential Test and we didn't make any detailed comments on that assessment, so it's understandable why it's appeared like this in Sandwell's.

- **SH5 – Mill Street, Great Bridge (page 4)**

The explanatory text explains that the majority of the site is located in an area at low risk of flooding from all sources now and in the future. However, quite a high proportion of the site is located within flood zone 3a plus the higher central climate change allowance of 30%. The National Planning Policy Framework states that the sequential test should be applied taking into account the current and future impacts of climate change. The proportion of the site in the flood zone 3a plus 30% climate change should be acknowledged.

- **SH28 Friar Street, Wednesbury (page 12)**

Similar to SH5 above, although the text states the majority of the site is in an area at low risk of flooding from all sources now and in the future, the flood zone 3a plus higher central climate change allowance of 30% completely surrounds this site. That should be acknowledged in the text, even if the answer is the same – that the Sequential Test is passed (presumably because there are no other sites available in areas of lowest risk).

- **SH36 Land between Addington Way and River Tame, Temple (page 14)**

A proportion of the site is in flood zone 3b (albeit a small proportion) and the flood zone 3a plus 30% climate change extent does have some impact and proportion along the eastern boundary. This is also quite a small site at 0.89 ha. The flood zone 3b and 3a plus climate change should be acknowledged within the text.

- **SH59 Beaver Road (page 21)**

We acknowledge this site already has started construction. Unfortunately, having checked our records, we don't appear to have been consulted on the planning application back in 2021 for 18 dwellings. It is a planning application for which we would be a statutory consultee as it is within Flood Zone 2/3 and within 8 metres of a main river (Tipton Brook). The Flood Risk Assessment submitted with the application appears to primarily focus on surface water flood risk. Had the site not started construction, we would have recommended a Level 2 SFRA assessment, however, appreciate this is not now appropriate. We will contact your development management colleagues to run some refresher training on when to consult us.

- **SEC1-8 Roway Lane, Oldbury**

Page 35 provides an Exceptions Test for the site 'as the site is within flood zone 3 and flood zone 2' and 'significant surface water flood risk.' There's a discrepancy error, as this doesn't match the information provided in the Sequential Test Table 1 page 31. The Sequential Test text states that 100% of the site is within Flood Zone 1 with no climate change impact and only 0.26% within a low-risk surface water flood zone.

There are some errors with the site allocation reference numbers for the employment sites which was confusing, but this is minor. For example, there's an Exceptions Test for SEC 1-7: Land off Bilport Lane, Wednesbury (page 38) but it's labelled as SEC1-5 Site off Bilport Lane on page 29.

Level 2 Strategic Flood Risk Assessment

Section 1.5 and 1.8 explains that Sandwell MBC have proposed three sites to go forward for a Level 2 assessment. This is based on the different sources of flood risk and the proportions of these risks, as indicated by the Level 1 site screening results (Appendix M, Level 1 SFRA).

Although we accept the Councils reasoning and final decision on this, we did find it strange that other sites were not selected for Level 2 Assessment given the levels of risk relative to the sites that were eventually selected. For example, as referred to above, SH5, SH28 and SH36 have levels of risk that would either be commensurate or higher than SM2 Lion Farm, and in a way more challenging because they are smaller sites. In addition, SH5, SH28 and SH36 have proportions of the climate change impact (flood zone 3a with 30% climate change) impacting these sites, plus some had flood zone 3b. These sites also had other sources of flood risk (i.e. surface water) so we were left unsure why these were not also put forward for L2 assessment. Usually, JBA have a threshold to assist with selection but it's not clear whether this was used or not. At this advanced stage of the Local Plan we would not insist these are assessed at L2, but would recommend they are if possible. If this is not possible, site-specific assessments at the planning application stage can assess the risk, and help determine the exceptions test if necessary.

The SFRA keeps referring to 'both' sites when 3 sites have been put forward for the Level 2 SFRA assessment and Exceptions Test.

- **4.10 Cumulative Impacts**

The Level 1 SFRA Cumulative Impact Assessment (CIA) identified the majority of Sandwell as highly sensitive to increased runoff as a result of the cumulative impacts of development. It states '*All new development should give consideration to the inclusion of Sustainable Drainage Systems (SuDS) within the site design. It is essential that new development does not increase runoff and aims to reduce runoff as far as reasonably practicable beyond present rates. Details of potential SuDS applicability are provided within the Level 2 Site Summary Tables contained in Appendix A.1.*'

We believe there is a dedicated section on cumulative impacts in Sandwell's Level 1 SFRA that lists the measures developers should undertake to help alleviate cumulative impacts, and this should go beyond SuDs, it brings in additional measures. Could this section be amended to reflect this so that this doesn't miss the wider measures that could be implemented such as making space for water, contributions to wider community flood risk schemes, natural flood risk management, etc.

- **5.1 Summary of key messages**

It states here: 'As part of the Level 2 SFRA, **two** detailed site summary tables have been produced for the Level 2 sites assessed. The tables below provide a summary of the site tables, which are shown in Appendix A.1.' This should be **three** detailed site summary tables.

- **5.2 Recommendations**

We recommend JBA review Dudley's L2 SFRA for additional recommendations because there seems to be more that could be added here. Dudley's sites are similar in that they have a mixture of flood risk. [REDACTED] is the Policy Officer at Dudley that could be approached for this.

The wording states: 'In principle, it is possible for **both** sites to pass the flood risk element of the Exception Test by...' when it should confirm it is 3 sites where it is possible to pass the flood risk element of the Exceptions Test.

We agree with the recommendation on • Siting development within the settlement away from the highest areas of risk into Flood Zone 1 where Flood Zone 1 is present within sites.

Regarding the following wording:

- Using areas in Flood Zone 2 for the least vulnerable parts of the development in accordance with Table 2 in the PPG.

We are not keen on the wording here, but it could be clarified to improve it. We don't want to be encouraging any development in flood zone 2 when there is a good chance of locating all of development in flood zone 1. 91% of SM2 Lion Farm is Flood Zone 1, 95% of Bilport Lane is Flood Zone 1, and 83% of Direct 2 Roway Lane is Flood Zone 1. We recommend this is struck out or replaced with 'In exceptional circumstances, if some limited development is necessary within flood zone 2, placing the least vulnerable development in those areas.'

Regarding the following wording:

- Implementing site-level mitigations such as raising land on parts of the site and lowering in others to bring developable areas above the design flood event. Any raising of land must not contribute to a loss of floodplain storage or increase the risk to areas away from the site.

No land raising would be necessary if development is located to areas of lowest flood risk – Flood Zone 1. We don't recommend land raising where this can be avoided as this can increase risk to third parties, and we would expect direct compensation in the form of level for level, volume for volume floodplain compensation.

We note the additional site allocation:

Part of Rowley Regis Golf Course

There is no fluvial flood risk on this site, so we have no comments in respect of that.

The comments included in the Site Allocation table are that: Part of the site was a former landfill area. This can be addressed through appropriate remediation.'

We think the rating given should be amber, not green, for the category Ground Contamination. The remediation of historic landfill sites can be complex due to their potential environmental risk to groundwater, surface waters and human health. This site lies on a Secondary A and B groundwater aquifer. Sites on historic landfill often require a bespoke Environmental Permit for their remediation depending on the method used to treat/recover the contaminated material and soils. This may require detailed discussions with our National Permitting Services because of the legal requirements under the Waste Framework Directive (WFD) (2008/98/EC). This can also have significant cost implications. Most sites will require an environmental permit from us unless the waste can be treated in-situ as part of the [Definition of Waste: Code of Practice](#). We recommend applicants contact us early to arrange pre-application/pre-permit discussions.

Ideally for such sites at the Local Plan stage, we recommend that in discussion with Environmental Health Officer that the site has been appropriately assessed to ensure that the allocation is deliverable in the context of the previously identified contamination. It would be appropriate to consider this to ensure robustness and deliverability of the site allocation. As a minimum at the planning application stage, the site would need a phase 1 desk study to confirm the principle that the land is developable but further site investigation assessment may still be needed.

This should consider our

[allocate%20land%20which%20is%20known%20to%20be%20affected%20by%20contamination%20only%20for%20appropriate%20development%20–%20and%20be%20clear%20on%20the%20approach%20to%20remediation;]Groundwater Protection guidance and [Land Contamination Risk Management](#)

guidance. The Planning Practice Guidance also has advice for [Land affected by contamination](#). Our concern is purely the contamination of controlled waters element. The council's public protection team should also be involved and satisfied that the development is deliverable.

The advice we've given here also applies to **SH18 Friar Park, Wednesbury** where discussions on waste recovery have started with our National Permitting Services.

If you have any questions on our comments, please contact me.

Kind regards

Keira Murphy MRTPI

Planning Specialist, Sustainable Places

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