

**Respondent ID 21 Mr Ian Carroll Chair, The Friends of Sheepwash Local nature Reserve.**

**REP ID 1391**

**n.b** There are highlighted links within this PDF. Please refer to these as part of this submission statement.

**Issue 1c – Whether the plan has been prepared in compliance with other legal and procedural requirements.**

**Q1.9 Has consultation on the plan been carried out in accordance with the adopted Statement of Community Involvement (MON 002) and the requirements of the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)?**

Sandwell council's statement of community involvement July 2022 (noted not in examination library) states at

***3.4 "Minimum Standards for consultation***

***The legal requirement for consultation on planning documents is set out in government regulations. In summary the regulations require the council to: • Place all relevant documentation and supporting material on the council's website so that it is easily accessible and can be inspected. This will be made available at [www.sandwell.gov.uk](http://www.sandwell.gov.uk). • Ensure relevant documentation and supporting material is available in convenient and appropriate locations which includes the council offices.....***

***• Abide by the minimum six weeks' consultation on planning documents set out in statutory guidance."***

With this in mind perhaps the council can explain why it dropped hundreds of pages of documents in the examination library AFTER the Reg 19 consultation, and then just days before the expiry of the hearing statements in response to the Inspector's Matters, Issues and Questions under examination?

One of these documents alone SA/ED46 is over 400 pages, and cannot possibly be interpreted with just days to go to the deadline of 12<sup>th</sup> July for the hearing sessions. It would have been nice to be able to comment on this at the appropriate opportunity- reg 18- **The Regulation 18 Draft Plan consultation took place from Monday 6th November 2023 to Monday 11th December 2023!** It may be the case that representors had already submitted hearing statements for the examination before

these documents were published- and only then known about because the programme officer emailed respondents- whereas the council did not. It is of grave concern that these are also dated from 2023.

We do not believe the council have therefore acted within their Sandwell Local Plan Consultation Statement December 2024. SUB 009, and as such question whether these documents now should even be admissible as evidence to this examination without the due process being followed? Though stated in the document page 9 3.1 Methods of Engagement *“Available evidence has been published during 2023”*- Obviously IT WAS NOT!

This should be of some embarrassment to Sandwell Council and its planning policy unit, but it is, as I hope to explore in subsequent issues and matters in later weeks, a leitmotif of incompetence or deliberate obfuscation of material to aid the passage of the plan unopposed. It is clear that following the demise of the ill fated Black Country plan, the council embarked on a rushed endeavour to get its own plan through- note the errata sheet. It is evident that this haste has led to issues such as this- but is has there been deliberate intent to hide documents for consultation like “newts in the drawer”?

Our own representations at reg 19 with the key supporting evidence document was not submitted to the programme officer by Sandwell council, and we had to do this ourselves. It is also of note that despite requesting to take part in the hearings on the forms, the council left my request to speak at the hearings blank. Again I had to contact the programme officer to confirm my wish to do so, which can be confirmed by emails to her.

Similarly a petition was presented to Sandwell council at the outset against the inclusion of the areas now identified as “SH35” and “SH36”, some years ago and yet with semantics and changing rebuttal, the council through Andy Miller and planning policy despite originally stating that this would stand and be carried forward at the correct time and process, then changed that statement meaning that a new petition had to be organised- as has now been presented as part of our REG 19 statements. The site allocation areas in the “new” SLP really do not differ greatly at all from the area identified in the Dudley port supplementary planning document in 2017, and before that the SSADDP of 2011. **This land has not over this time period progressed anywhere for built development and that fact should be noted.** The site owners and their agents are fully aware of major objection to this area being developed. The petition has not been treated fairly by Sandwell council, and we believe they have shown bias in favour of the prospective landowner.

The scale of documents, and the complexities of them make it virtually impossible for members of the public with full time jobs to digest the Sandwell local plan and inspect it. It has been an oppressive process and not easy to understand. Without doubt, it is stacked in favour of housing developers and their agents.

**Q1.10 Does the Sustainability Appraisal (SA) provide a comprehensive and robust basis to inform the strategy and contents of the plan, particularly in terms of: a) Whether the methodology is appropriate? b) Its assessment of the likely effects of the plan’s policies and site allocations?**

Which sustainability appraisal is being examined? Only now has the reg 18 SA been put on the council website. We cannot possibly comment on *this* document, and rather than helpful, at this

stage, it is the exact opposite- and I would state, I believe that to be another deliberate attempt by SMBC to put people off commenting so that the plan is pushed through.

In terms of our REG 19 comments, **NPPF Dec 2023 “Ground conditions and pollution P189, 190,191** also relevant to the unsound inclusion of this site, the legal compliance needs to be tested in terms of the rattlechain lagoon area. There is no appraisal of this site, or its “hazardous waste area” site permit, or if this will be surrendered before the claimed 2034 SH35/36 delivery, or even within the entire period to 2041. The council sit on a theoretical unproven statement, made by the owners of a site who are not responsible for the licensed site, and who only wish to include this because it serves as a convenient income stream for tipping “inert” wastes from other sites such as Coneygree in Tipton which they own. We do not believe their intentions are at all genuine.

*“P 191. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.”*

The council have not done this is the SA, and have not demonstrated that the lagoon site is safe for development. The site owners of the lagoon site have also made no comment at all about their land being tied into the allocations during the consultation process and rejected such in 2011. Without this, and that it is still a licensed EA site- how can the council make any valid comment in this regard? **What unpublished evidence is it relying on? Why has this not been made available? Will the inspector take this into account or request it from the owners of the hazardous waste lagoon?**



Sandwell Local Plan Response to Issues and Options Consultation Representations November 2023 response to our comments (SUB 010). Council responded to our representation

*“The NPPF requires the development of brownfield land first. Nature Conservation surveys have been undertaken on sites of potential interest for nature conservation and where development sites are proposed next to, or near to nature conservation sites, policies within the plan will seek to mitigate against any damage and expect designs to take account of sensitive uses.”*

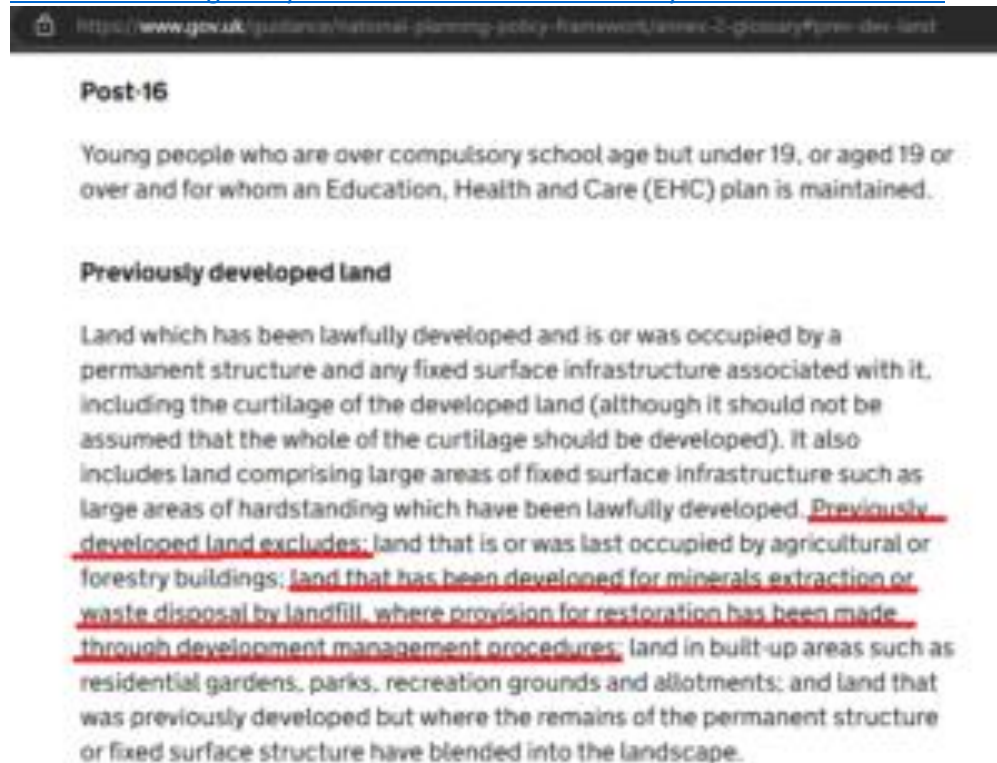
This is clearly and evidentially flawed and also untrue in respect Of sites SH35 and SH36.

Sandwell council made a false statement within their recent [highly dubious press release](#) written as though on behalf of the owners of the site. The first ten words of their statement are a fundamental misunderstanding of Government policy and terms of reference, but it perhaps comes as no surprise as we have seen as to how those in planning policy [could not even identify one of their own SINC/NATURE RESERVE SITES AS SUCH in a planning application.](#)

***“Rattlechain Tip in Tividale Oldbury is a privately owned brownfield site.....”***

“Brownfield land” or land defined as “previously developed land” has a specific meaning as defined by The National Planning Policy Framework- the published guidance dealing with planning issues and how arguments about suitability for use etc are decided. You can see a screenshot of the link below.

[National Planning Policy Framework – Annex 2: Glossary – Guidance – GOV.UK](#)



This confirms that “brownfield land” **EXCLUDES “LAND THAT HAS BEEN DEVELOPED FOR MINERALS EXTRACTION OR WASTE DISPOSAL BY LANDFILL WHERE PROVISION FOR RESTORATION HAS BEEN MADE THROUGH THE DEVELOPMENT PROCESS”.**

The lagoon, a still hazardous waste site under permit was a quarry site for the extraction of Etruria marl for brick making, as was Sheldon’s original pit that became the main hole for the Duport’s Tip (SH35 area). After that, the entire picture above including the former “rattlechain Tip” the council name it as confirms that this land is entirely excluded from the definition of “brownfield land” because ALL OF IT HAS BEEN USED FOR WASTE DISPOSAL LANDFILL, ALSO HAVING “RESTORATION” IN THE FORM OF PLANNING CONDITIONS- IRONICALLY LIKE PLANTING TREES. IT HAS ALSO “LAND THAT WAS PREVIOUSLY DEVELOPED, BUT WHERE THE REMAINS OF THE PERMANENT STRUCTURE (BRICKWORKS AND PITS) HAVE BLENDED INTO THE LANDSCAPE IN THE PROCESS OF TIME.”

Furthermore, in planning terms, as set out in the **Town and Country Planning (General Permitted Development)(England) Order 2015** and previous legislation, quarries are defined as ‘[sui generis](#)’. In simple terms this means that they do not fall in any defined use class including those that cover industry. **Therefore, in law, the land was not previously industrial land.**

The council therefore, and not for the first time are describing land under the political “brownfield first” policy banner incorrectly.

A further comment by SMBC stated *“Disagree. The Council does not agree that the objectives within the Issues and Options document contradict each other, or that the objective to protect and improve the environment is a token one. The Draft Plan contains a number of objectives that include the protection and enhancement of Sandwell’s natural environment, natural resources, biodiversity and countryside.”*

After the closure of the consultation we must report the wilful and deliberately targeted destruction of habitat – an urban forest on site SH35 by the site owners making a mockery of Sandwell Council’s claimed environmental protection policies and those under Part 2 A of the Environmental Protection Act-where it is noted that Sandwell council inexplicably failed to stop this, and failed to respond to concerns in a timely manner. Furthermore, its assessments of nature habitat sites are extremely poor and “out of date” and not based on robust information as required in the NPFF, and should therefore be challenged under examination as legally compliant in their SA. .

The John’s Lane area we will look at below, but attention should be drawn to the fact that the area in question was already a designated SLINC to Sandwell council, but also that this review extended the area based on a claimed ecological survey, and yet we get no explanation for the change in the area, which appears to me to just appear as though the council are “doing something” with areas so that they can later claim to be ecologically good eggs- **“token” sites**. Appendix 1 See attachment PDF document to this email.

*“2.4 The recommendation is required to ensure that the Council’s Local Plan is based on up-to-date evidence and can continue to be used as the basis for robust and defensible planning decisions.”*

So this means that the area that they are supportive of levelling to build 550 houses, including the SLINC would be “defensible”, in their local plan, based on “up-to-date evidence” from 2022?

Further on in this report we also get this, just to show the negative reasons as to what value Sandwell council places on such designated areas for wildlife.

*“4.5 The surveying of existing SINC and SLINC is essential to ensure that such designations are based on robust and up-to-date evidence.*

*4.6 The potential for planning decisions to be challenged increases where it can be shown that Local Plan allocations are based on out-of-date or incomplete information. Ensuring that there is current information relating to the Borough’s inventory of nature conservation sites, including SINC and SLINC, reduces this risk.”*

Sandwell council also put in a disclaimer by name dropping the local wildlife trust.

*“4.8 The reports are based on recommendations made by The Wildlife Trust for Birmingham and the Black Country. The recommendation has been endorsed by the Local Sites Partnership (LSP).”*

The SLINC area the council extended is incomprehensible in terms of why? In fact it appears to me that someone just did a doodle to tick the box they wanted as per the reason above.



As it is, we are aware that the former Duport's Tip area next to Rattlechain lagoon contains a rare butterfly- [the small blue](#), (*Cupido minimus*), Britain's smallest butterfly as well as the associated kidney vetch (*Anthyllis vulneraria*) which its caterpillars eat. It is protected in the UK under the Wildlife and Countryside Act, 1981 and a priority species under the UK Post-2010 Biodiversity Framework, also appearing on the **GB Red List (2022): Near Threatened**. Numerous botanists and ecologists of local note HAVE conducted recent surveys on this site- whereas, the council and the developers HAVE NOT.

In an attempt to gauge this information, an FOI request was REFUSED by Sandwell council favouring the site owners and therefore once again gatekeeping information that would prejudice developer intent but perhaps question its SA for being the worthless document based on poor methodology that it is.

### [Destruction of urban forest at land in Tividale without planning application - a Freedom of Information request to Sandwell Metropolitan Borough Council - WhatDoTheyKnow](#)

SUB 011 council responded to our concerns “**noted. The LNRS has been included as part of the SLP and will need to be taken into account when decisions on planning proposals are made**”

**Well clearly they were not**

The Birmingham and Black Country Wildlife Trust specifically also mentioned this area in their local nature recovery network area and this species in their submission to Sandwell council, see below.

Document Element: APPENDIX B - Sandwell Site Allocations  
Respondent: Birmingham & Black Country Wildlife Trust (Dr. Kayle Paulson, Senior Planning and Biodiversity Officer) [3/17]  
Date received: 11/11/2024 via Web

**Summary:**  
Restating from our previous response submitted in December 2023 as our suggested changes have not been included yet:  
In order to be legally compliant with existing relevant policies (e.g. UK Environment Act 2021, the Biodiversity Net Gain law 2024, and the National Planning Policy Framework and guidance) and in order to meet the required criteria for soundness, several suggestions are made below for this section of the local plan.  
We would object to any housing allocation on a site that has a current local site designation. See further details in changes suggested below.

**Full text:**  
Restating from our previous response submitted in December 2023 as our suggested changes have not been included yet:  
In order to be legally compliant with existing relevant policies (e.g. UK Environment Act 2021, the Biodiversity Net Gain law 2024, and the National Planning Policy Framework and guidance) and in order to meet the required criteria for soundness, several suggestions are made below for this section of the local plan.  
We would object to any housing allocation on a site that has a current local site designation. See further details in changes suggested below.

**Change suggested by respondent:**  
**Sandwell Site Allocations and Allocation Changes**  
Comments: Each allocation needs to be checked for being Potential Sites of Importance (PSIs) and evidence reviewed on each case and the need for a local sites assessment to be considered prior to the allocation. Evidence on a number of Potential Sites of Importance (PSIs) suggested local sites assessments should be carried out in order to establish whether these meet the local sites criteria threshold. Examples (though not an exhaustive list) are listed below.  
Comments: We would object to any housing allocation on a site that has a current local site designation. For example, SH18 and SH43 below. We would also object to the allocation of any PSIs where evidence suggests these could be sites of value locally on the basis that these would require local site assessment prior to an allocation being proposed. For example we would object to SH22 and SH23 on this basis. We are aware that the area to the East of the lagoon supports a sizeable area of kidney vetch and is likely to support a colony of the rare Small Blue butterfly. We understand that other notable species such as Bee Orchids are present on the eastern side of that site (by Macclesfield Close) and that this is an area of grassland, open mosaic and scrub which has developed on former colliery/brickworks land which connects to the wider **reservoir** area. The areas have also been identified as core areas in the nature recovery network analysis therefore the need for a local sites assessment in such circumstances is clear.

Please see further notes and objections to specific allocations here:

The council's modifications do not address our continued concerns and their site assessment for SH35 and SH36 is not based upon any published factual evidence. We maintain that this site allocation should be removed from the SLP because the questions surrounding its viability are highly dubious.