
Sandwell Local Plan 2024-2041 - Examination

Inspector

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MATTERS, ISSUES AND QUESTIONS for Hearing Week 3

Matter 4: Natural and Historic Environment

Issue 4 – Whether the plan is positively prepared, justified, effective, and consistent with national policy in relation to its policies for the natural and historic environment (policies SNE1 – SNE6 and SHE1 – SHE4).

Q4.1 Are the requirements of policy SNE1 clear and consistent with national policy?

Including:

- a. Would they be effective?
- b. Is criterion 1 necessary for soundness?
- c. For soundness, should criterion 5 include a more specific requirement for enhancements to wildlife corridors?
- d. Is criterion 7 sufficiently flexible to address changes over the plan period?

Q4.2 Is policy SNE2 clear and is it consistent with national policy and mandatory requirements in relation to biodiversity net gain? Including:

- a. How have the sites identified in SNE2(6) as suitable for the provision of ‘biodiversity units’ been selected and is this justified? Are they deliverable?
- b. For soundness, is it necessary for any additional or alternative ‘biodiversity units’ sites to be included?

Q4.3 Are the requirements of policy SNE3 clear and consistent with national policy?

Including:

- a. Would they be effective, including sufficiently flexible?
- b. For soundness, should the policy be clearer on tree retention and replacement?
- c. Are the specified buffers justified?
- d. Does the policy appropriately address the protection of irreplaceable habitats including ancient and veteran trees in a manner consistent with national policy?

Q4.4 Are the requirements of policies SNE4, SNE5 and SNE6 clear, justified, consistent with national policy, and will they be effective?

Qn. No.	Response
Q4.1a	<p>The Council is of the view that the requirements of Policy SNE1 are effective. Appendix 3 of the Environment Topic Paper [SA/ED7C] sets out a comparison of the requirements of the NPPF in respect of nature conservation and the natural environment (December 2023) against various policies in the SLP. Policy SNE1 addresses the requirements of NPPF paragraphs 180, 181 and 186 and the table identifies how it does so.</p>
Q4.1b	<p>Criterion 1 of Policy SNE1 identifies that development that has an adverse impact on sites of European importance (such as SAC sites like Cannock Chase or Fens Pool in Dudley) in line with national legislation.</p> <p>This has been included as it was felt to be important to ensure that all developers or promoters of schemes in Sandwell were made aware that even though these protected sites may be physically distant from their own, the cumulative effects of development proposals may potentially have an impact on the significance of them.</p> <p>To ensure any planning decision respects the requirements of national and European legislation, the Council may need to undertake an EIA to ascertain whether there would be any likelihood of adverse impacts arising for a positive decision.</p> <p>As a result of including this requirement in the policy, developers and others will have been made aware that their scheme, in conjunction with any others taking place in Sandwell, might to be made the subject of an Appropriate Assessment or other scoping / screening process.</p>
Q4.1c	<p>Criterion 5 of SNE1 relates to the movement of wildlife along linear corridors into and out of the urban areas. Such wildlife corridors are vital routes that allow for species to spread across the borough and have access to food and suitable habitats within and beyond the area.</p> <p>There is a requirement for developers to take account of the Local Nature Recovery Network when they are designing and developing proposals that might have an impact on them. While the LNRS is not a delivery plan, the local habitat map it contains identifies strategic areas where action for nature recovery and delivery of other environmental benefits would have the greatest impact. Where LNRS actions for habitats have been mapped these areas are referred to as being 'strategically significant' in the BNG metric.</p> <p>The West Midlands Combined Authority were made responsible for delivering the region's LNRS after the publication of the Regulation 18 Sandwell Local Plan and once adopted formally, this revised version of the Recovery Strategy will effectively supersede the one used to inform Policy SNE2. While the previous version of the LNRS referred to a network of sites and enhancing linkages between them, the WMCA version (likely to be adopted in November 2025) focusses more on</p>

Qn. No.	Response
	<p>encouraging positive actions for nature recovery across a series of locations and habitat types.</p> <p>All strategically significant mapped areas offer a 15% uplift in the value of biodiversity units within them, compared with such habitats outside mapped areas (a x1.15 multiplier in the BNG Metric calculation). Therefore, developers are incentivised to deliver LNRS priority actions and enhancements in these areas.</p> <p>This would be emphasised and clarified in the case of Policy SNE2 by an amendment to the wording of criterion 5 to reflect the benefits of wildlife corridor enhancements. The Inspector is respectfully directed to the Council's proposed amendment as set out in Q4.7.</p>
Q4.1d	<p>Criterion 7 reflects the ongoing process of local environmental site designation and review, which is a process carried out independently of Sandwell Council and other local authorities in the area by the Birmingham and Black Country Local Sites Partnership (LSP). Sites of Importance for Nature Conservation (SINCs) and Sites of Local Importance for Nature Conservation (SLINCs) are identified, agreed and reviewed by the LSP.</p> <p>As part of this process, from time-to-time sites (especially those that were identified some years previously) will need to be reviewed and their environmental status / importance re-evaluated. At this point, it may become apparent that a site has changed in its environmental "value" – SLINC sites may have improved to the point where they could be redesignated as SINCs, or vice versa, or in some cases, a site may no longer merit any designation.</p> <p>The purpose of criterion 7 therefore is to alert landowners and developers that the environmental status of a site may change. For example, a review of a designated ecological site may need to take place as part of the consideration of a planning application, or before the allocation of a potential development site through the local plan process. This is also expanded upon in the Justification to the policy (paragraph 4.6).</p> <p>The wording of criterion 7 reflects this process but does not include any reference to the fact that in some circumstances, the environmental significance of a site might have decreased over time, to the point where it no longer warrants the designation it has been identified as. For the sake of clarity, the text of the criterion could be amended to reflect this reality.</p> <p>The Inspector is respectfully directed to the Council's proposed amendment as set out in Q4.7.</p>

Qn. No.	Response
Q4.2	<p>The Council believes that Policy SNE2 is clear and consistent with national and mandatory requirements. As above, Appendix 3 of the Environment Topic Paper [SA/ED7C] identifies how environmental and ecological requirements set out in</p>

Qn. No.	Response
	<p>national guidance have been addressed by various policies in the Sandwell Local Plan. Paragraph 185 of the NPPF (December 2023) (as detailed further in Circular 06/2005) requires plans to identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks and promote the conservation, restoration and enhancement of areas of ecological and environmental value and identify ways of securing environmental gains.</p>
Q4.2a	<p>The sites identified in SNE2(6) as proposed habitat banks suitable for the delivery of off-site biodiversity net gain units were identified through a study carried out by consultants for the Council prior to their inclusion in the SLP. The aim of the work was to understand where such provision could be made within the borough, in light of the understanding that Sandwell and its identified housing / employment sites were unlikely to be able to rely on sufficient on-site provision being available when housing or other schemes were being brought forward. The Council is very clear that BNG will always be sought on-site in the first instance, in line with the very clear hierarchy set out in national legislation. To ensure as much biodiversity value as possible was retained within Sandwell, where this could not be done on-site the Council wanted to ensure that sufficient capacity was made available within the borough to enable developers, should they so choose, to purchase BNG units on local sites. This would in turn ensure Sandwell's biodiversity would still benefit from the environmental and ecological uplifts that BNG can bring.</p> <p>The study that was undertaken by the consultants is available in the Examination Library as ENV004. It sets out the process and steps that were taken to identify and assess the potential sites, including work to understand their availability and assessments of their capacity and BNG value both through desktop work and through site visits. A decision was taken very early in the commissioning process to only consider council-owned land, to ensure that deliverability was achievable, and also to ensure that proposed BNG uplift works would not conflict with extant land uses, such as formal playing pitches, land in other active uses or land that was leased to third parties. This has helped to ensure that the sites that have been chosen do not have any constraints on their eventual delivery.</p> <p>The Council, along with other authorities in the metropolitan West Midlands, is in discussion with the WMCA about a potential vehicle to assist in the "on the ground" delivery of several individual habitat bank sites, via the creation of a special purpose vehicle enabling them to be brought forward proactively to start delivering BNG units.</p> <p>The Council believe that the process used to choose the sites is justified, as it has resulted in the positive and evidenced identification of sites that can provide a significant potential uplift in ecological improvements. It will also ensure that these sites are genuinely deliverable, in places that need them. It will help to fulfil the Council's biodiversity duty and should make it easier for developers to meet their BNG requirements.</p>
Q4.2b	<p>It is important to point out that the BNG process and the identification of sites for habitat banks could take place without their being included in a local plan, but</p>

Qn. No.	Response
	<p>Sandwell Council felt that making them subject to a formal policy would strengthen their status and help to focus their delivery.</p> <p>There are a number of other sites identified in the study [ENV004] that could also come forward if required; the sites identified in SNE2 include locations at Sandwell Valley, as the area with the highest potential BNG value in the borough, and within the four identified regeneration zones, to ensure that BNG and environmental improvement can be provided in areas most in need of uplift.</p> <p>In addition, this will not preclude private operators or landowners in Sandwell bringing forward their own BNG habitat bank sites in the borough.</p> <p>The WMCA have issued a draft Local Nature Recovery Strategy (LNRS) for public consultation as of August 2025, which maps the West Midlands' priority habitats and species, and identifies locations where the related objectives of the LNRS can be delivered.</p> <p>Once adopted, this strategy will replace the draft Black Country LNRS referred to in the SLP (Appendix 1) and may help identify additional opportunities for developers to deliver environmental improvements, with the agreement of landowners. Use of the identified areas for BNG purposes would still depend on them having been made subject to appropriate legal agreements to secure their management and monitoring for at least 30 years.</p>

Qn. No.	Response
Q4.3a	<p>The Council is of the view that Policy SNE3 is sufficiently clear and flexible enough to enable developers, landowners and members of the public to understand and implement its requirements for the protection and uplift of Sandwell's trees and woodlands.</p> <p>The policy is intended to provide guidance and advice on ensuring trees are retained and incorporated into development schemes and other proposals as an integral part of the design of housing and employment sites, infrastructure provision and public schemes.</p> <p>The policy has incorporated aspects of the Council's Trees Strategy as well as published guidance from The Woodland Trust, the Black Country iTree survey and government guidance on ancient and veteran trees and ancient woodland and believes this has helped to create a robust and measured approach.</p> <p>The intention of the policy is to provide positive guidance on the role of trees and hedgerows in forming part of a site's environment and is worded to encourage developers and landowners to engage with their retention and protection from an early stage in the design process.</p>

Qn. No.	Response
	Part 14 of the policy allows for off-site replacement where trees cannot be included on a site, in line with the hierarchy set out in Policy SNE2 and with the requirements of BNG.
Q4.3b	<p>The policy's presumption is clearly in favour of the retention of healthy trees on sites, but it does allow for replacement trees to be incorporated where extant ones need to be felled. This allows for a degree of flexibility while retaining and maximising the number of trees on a site.</p> <p>The ratio of three replacement trees for every one felled is to ensure that both the Council's targets for additional canopy cover are met and also to counter the likelihood of a replacement tree failing; should only one replacement be provided, the policy's requirements and those of the Council's Tree Strategy would not be achieved if that were subsequently to die.</p> <p>While the information in the policy is clear on what and when replacements may be required, it may be more appropriate to condense those references under a separate sub-heading, so it is clear to interested parties what is required in a more accessible format. This should be located at the start of the policy, to allow for an early understanding of the requirement.</p> <p>The Inspector is respectfully directed to the Council's proposed amendment as set out in Q4.7.</p>
Q4.3c	Buffer zones identified in Policy SNE3(2) and (3) are in line with the recommendations set out in Government guidance ¹ on making planning decision that affect ancient and veteran trees (January 2022).
Q4.3d	<p>Paragraph 186c of the NPPF (December 2023) makes it clear that proposals resulting in the loss or deterioration of irreplaceable habitats such as ancient woodland and ancient / veteran trees should be refused unless there are wholly exceptional reasons for it being permitted and compensation strategies exist.</p> <p>Policy SNE3(1) states that planning permission will not be granted for any development that would result in the loss of or damage to such trees. This is reiterated in paragraph 4.64 of the Justification, which states that the "<i>... the Council considers that it is essential to provide absolute protection for ancient and veteran trees and ancient woodland sites in Sandwell.</i>"</p> <p>Sections 2 and 3 of the policy set out further requirements for where such trees might exist adjacent to development sites, including the provision of buffer zones.</p> <p>While the Council are satisfied that the intent and wording of the policy concur entirely with the requirements of national guidance, it has suggested a slight amendment for clarity.</p>

¹ <https://www.gov.uk/guidance/ancient-woodland-ancient-trees-and-veteran-trees-advice-for-making-planning-decisions>

Qn. No.	Response
	The Inspector is respectfully directed to the Council's proposed amendment as set out in Q4.7 .

Qn. No.	Response
Q4.4	The Council believes Policies SNE4, SNE5 and SNE6 are clear, justified, consistent and effective. In addition, these policies are locally relevant to Sandwell, in that they cover issues and areas of significance to Sandwell's environment, both natural and historic.

Q4.5 Are the requirements of policies SHE1, SHE2, SHE3 and SHE4 clear and consistent with national policy, including in relation to the requirements for the assessment and understanding of significance? Including:

- a. For soundness, should criterion 4 of policy SHE1 refer to significance?
- b. Do the policies set out effective requirements for the reuse of heritage assets?
- c. Should policy SHE3 cover the full range of non-designated heritage assets?

Q4.6 Are the plan's policies for the natural and historic environment compatible with each other and, taken together, is it sufficiently clear for plan users what is expected?

Q4.7 In terms of this issue, are any main modifications necessary for soundness?

Qn. No.	Response
Q4.5	<p>The Council believes the policies covering the historic environment are clear and consistent with national policy. They have been the subject of discussion with Historic England during their preparation and following consultation, and changes suggested to their wording have been incorporated.</p> <p>In addition, following those discussions, the Council carried out an assessment of the potential impact on the historic environment / heritage assets of various allocations in the SLP. Where assessments have been undertaken that demonstrate likely impacts may occur, amendments have been made to the text in Appendix B of the plan and are identified in SA/ED3 under references PAM62 – 68.</p> <p>Document SAA005 sets out further information on the way the heritage assessment process was undertaken, and which sites were considered.</p> <p>In terms of other sites that may come forward during the plan period (windfalls), Policy SHE1(3) requires heritage assessments to be undertaken for schemes that may otherwise impact on the historic environment and their outcomes will be used to inform planning decisions. While this requirement sits within a policy that relates to designated heritage assets, it will also apply to non-designated assets as well.</p> <p>To make this requirement clearer, a modification has been proposed to ensure that the need for an assessment to take place will apply in various circumstances and in the context of non-designated assets as well. The Inspector is respectfully directed to the Council's proposed amendment as set out in Q4.7.</p>
Q4.5a	<p>An additional modification has been identified that replaces the word "setting" with "significance". Please see PAM36 in document SA/ED3, which the Inspector may wish to consider as a main modification.</p>
Q4.5b	<p>Policy SHE3(1) refers to the reuse of locally listed buildings, and criterion 2 states that demolition of such buildings will be resisted unless it can be demonstrated that no other viable use can be found for them. Paragraph 4.135 also encourages owners and developers to explore alternative uses for locally listed buildings and other historic assets.</p>

Qn. No.	Response
	<p>Taken together with other policies in the SLP, such as those requiring careful consideration of the reuse of community facilities and other publicly focussed buildings (Policy SDS6, Policy SDM9) the Council is of the view that the reuse of historic buildings is addressed sufficiently strongly to enable buildings of local importance as well as designated heritage assets to be retained and reused as necessary.</p>
Q4.5c	<p>According to Historic England,</p> <p><i>Local heritage listing can include all types of heritage assets, whether buildings, monuments, sites, places, areas or landscapes.</i></p> <p>While Policy SHE3 refers to locally listed buildings, examples of other undesigned assets have been captured in SHE2(5) (a – g). The expectation is set out in the policy that proposals for development are required to sustain, reinforce and conserve special and / or locally distinctive historic character in Sandwell.</p> <p>In addition, the canal network and the Rowley Hills both benefit from specific policies in this and the previous section of the SLP, reflecting their greater than local significance alongside the importance of their historic and environmental character.</p> <p>In that regard, Policy SHE3 refers more specifically to locally listed buildings as those are the aspects of the historic environment that are in the main most likely to be impacted by a wide range of development proposals. Sandwell’s Local List provides details of identified non-designated heritage assets and includes buildings, structures, parks and remnant industrial architecture; it can be viewed here - https://www.sandwell.gov.uk/downloads/download/630/locally-listed-buildings.</p> <p>Should it be felt to offer greater clarity, a modification could be proposed to change the policy’s title. The Inspector is respectfully directed to the Council’s suggested amendment as set out in Q4.7.</p>

Qn. No.	Response
Q4.6	<p>The policies set out in the natural environment and historic environment sections are compatible with each other, and this is reflected in Policy SDS8 – Green and Blue Infrastructure. SDS8 states that Sandwell’s environmental and heritage networks (including conservation sites, habitats, parks and gardens) should be improved and enhanced wherever possible. It also supports the enhancement of green and blue infrastructure in an integrated way to ensure the delivery of multiple benefits, including for the landscape and for heritage conservation (criterion 2).</p> <p>This effectively promotes an expectation that the natural environment will be managed with clear consideration for heritage assets.</p>

Qn. No.	Response
	<p>The broader strategic policies reinforce the idea that development should demonstrate how it considers and reflects the context, character and heritage importance of sites, and promotes placemaking and the enhancement of the natural environment.</p> <p>Policy SDS1 also specifically addresses both the natural and historic environments as part of the Spatial Strategy, under criteria 1(i) and 1(j).</p> <p>Policy SDS5 – Achieving Well-Designed Places - reinforces that development must demonstrate how it respects context, character, and heritage and contributes positively to place-making and environmental improvement (criteria (5), (6) and (10) and paragraphs 3.71, 3.73 and the last bullet point in 3.74).</p> <p>The cross-references in the strategic policies help to set the context for development in both the natural and historic environment and makes clear the importance to be attached to both elements.</p> <p>The Council’s statement for Matter 3 Q3.6(a) addressed a similar consideration in terms of the relationship between Policy SDS2 (climate change) and the approach to heritage assets. A similar approach may be adopted when weighing the relative merits of schemes that might call into question the relationship between natural and heritage issues.</p> <p>The NPPF makes it clear that where proposals would impact on a designated asset, great weight should be given to the asset’s conservation and any harm to its significance will require “... <i>clear and convincing justification</i>” (paragraph 206). Substantial harm to or loss of the significance of a designated asset of the highest importance (e.g. scheduled monuments, Grades I and II* buildings etc.) should be wholly exceptional and in other cases should be exceptional.</p> <p>This places a clear responsibility on the Council to ensure any proposals involving designated and other historic assets are of sufficient merit to warrant any harm they may cause, as set out in paragraph 207. This will form a central part of the planning balance to be considered when decisions are taken on applications involving changes to heritage assets. S.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision-makers to have “<i>special regard</i>” to the desirability of preserving a listed building or its setting, which represents a statutory duty on the part of local planning authorities.</p> <p>Similarly, paragraph 186c) of the NPPF (December 2023) states that development that results in the loss or deterioration of irreplaceable habitats should be refused unless there are wholly exceptional reasons for it and a suitable compensation strategy can be delivered. This is extremely strong wording and effectively represents a de facto refusal in most cases.</p> <p>It will therefore be for decision-makers to determine where the planning balance will lie when faced with a scheme that could adversely impact either the historic or the natural environment. In most cases, it is likely to be a matter of the relative importance of each aspect.</p>

Qn. No.	Response
	Setting aside the issues around irreplaceable habitats, however, Policy SNE1.4 identifies that under exceptional circumstances and where there are clearly identified benefits, schemes may be undertaken that may have impacts on sites of <u>local</u> importance for nature conservation. This is provided that impacts are minimised, and sufficient mitigation can be undertaken to manage them. In this instance, the importance of a designated heritage asset might be expected to outweigh the harm to the local nature site.

Qn. No.	Response
Q4.7	<p>Q4.1c – Policy SNE1 - Amend criterion 5 to reflect the importance of enhancements to wildlife corridors –</p> <p><i>Developers must take account of the Local Nature Recovery Strategy (Policy SNE2) when preparing their schemes and should plan for the maintenance and where possible enhancement of such linkages. <u>Areas identified on the Sandwell Policies Map as wildlife corridors will be particularly suitable for enhancement and protection, and this will be required when planning proposals are brought forward that would affect them. Where such sites also fall within the West Midlands LNRS as areas of strategic significance a 15% uplift in the value of biodiversity units located within them will also apply.</u></i></p> <p>Q4.1d – Policy SNE1 - amend wording of last sentence of criterion 7 to reflect the fact that the ecological value of habitat sites may have reduced in some circumstances –</p> <p><i>... and will amend existing designations in accordance with this evidence. Consequently, sites may receive new or increased, <u>amended levels of protection over the Plan period, including occasionally their de-designation as a SINC or SLINC.</u></i></p> <p>Q4.3(b) – Policy SNE3 - relocate references to tree replacement requirements, for clarity, to form the first section of the policy. Make any consequential changes to policy / justification text as required.</p> <p>Move criteria 5, 12, 13, 14 to the new section as follows, renumber other criteria as necessary:</p> <p><u>Tree Replacement</u></p> <p><u>1. Where planning permission has been granted that involves the removal of trees, suitable replacement trees must be provided onsite. Where sufficient suitable onsite replacements cannot be provided, off-site planting or woodland enhancement, including support for natural regeneration, in the near vicinity of the removed tree(s) must be</u></p>

Qn. No.	Response
	<p><u>provided, in line with the mitigation hierarchy set out in Policy SNE2 (criterion 7b).</u></p> <ol style="list-style-type: none"> 2. <u>For every tree removed from a development site, a minimum of three replacement trees will be required to be planted, in accordance with the Council's aim to increase tree canopy cover across the district by 6% and to ensure that the minimum requirement of 10% biodiversity net gain is met and preferably exceeded.</u> 3. <u>The species, eventual size and amenity value of replacement trees must be commensurate with the size, stature, rarity, and / or public amenity of the tree(s) to be removed. Where trees to be replaced form a group of amenity value (rather than individual specimens), replacements must also be in the form of a group commensurate with the area covered, size and species of trees and established quality of the original group. Where possible, they must be planted in a position that will mitigate the loss of visual amenity associated with the original group.</u> 4. <u>Replacement trees must not be planted in locations where they would impact on sites identified / designated as ecologically important (see also Policy SNE2(4)) unless this has been specifically agreed with the Council.</u> <p>Retention and Protection of ancient woodland and veteran or ancient trees</p> <p>5. 4: Development that would ...</p> <p>Q4.3(d) – SNE3.1 - amend wording to clarify the Council's position on irreplaceable habitats such as ancient and veteran trees:</p> <p><i>Development that would result in the loss of or damage to ancient woodland and / or ancient or veteran trees will not be permitted be refused unless wholly exceptional reasons to allow it and a suitable compensation strategy both exist.</i></p> <hr/> <p>Q4.5 – Policy SHE1(3) - amend wording to make it clear when a heritage assessment will be required and for which types of development</p> <p><i>All proposals Planning applications for development that may affect a heritage asset (designated or non-designated) or its setting must be accompanied by a Heritage Impact Assessment. Proposals likely to require an assessment may include (but not be limited to) the following:</i></p> <ul style="list-style-type: none"> • <u>Demolition, alteration, or extension to a listed building</u> • <u>New development within a conservation area</u> • <u>Development adjacent to or within the setting of a heritage asset</u> • <u>Changes in land use that could affect a heritage asset</u>

Qn. No.	Response
	<ul style="list-style-type: none"> • <u>Infrastructure projects (roads, pipelines, utilities) crossing heritage-rich areas</u> • <u>Major developments likely to impact archaeology or historic landscapes</u> <p># <u>They</u> should set out clearly the significance of the heritage asset, including any contribution made by its setting, ...</p> <p>Q4.5(d) - Policy SHE3 - Revise policy's title.</p> <p>Policy SHE3 – Locally Listed Buildings Non-Designated Heritage Assets</p>