

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

REP ID 1390, 1391, 1392, 139 N.b there are highlighted links within this PDF. Please refer to these as part of this submission statement.

These matters relate to further comments in respect of site allocations SH35 AND SH36 We link these sites as they appear to be linked in terms of their site ambitions.

Q 9.1 E NO PLANNING PERMISSION OR APPLICATION HAS BEEN SUBMITTED FOR ANY PART OF THIS SITE

R19 SA of the Sandwell Local Plan – Appendix H: Selection and Rejection of RA Sites
LC-893_R19_SLP_Appendix_H_Selection and Rejection_5_030924EH .docx

September 2024

Site reference	Site address	Site use (as assessed in R18 SA)	Site use (as assessed in R19 SA)	Selected / rejected	SMBC's outline reason for selection / rejection
SH35	Ratcliffe Site Land to the north of Temple Way, Tividale	Housing	Housing	Selected for housing	It is considered that subject to the resolution of constraints of ground contamination, environmental concerns, and Policy issues the development for residential purposes would be suitable. The accommodation of these constraints which have still partly to be determined would reduce the site area for development. It is not considered appropriate to restore the historic employment use in this predominantly residential area. Gypsy/traveller use is not suitable given the size of the site
SH36	Land between Addington Way and River Tame, Temple Way	Housing/ Employment/ GTTS	Housing	Selected for housing; Rejected for employment; Rejected for GTTS	Although there are issues with the ground conditions and historic industrial uses to overcome, the site is considered suitable for residential redevelopment. There is the potential for development with the adjoining larger site, which would provide an increased capacity and bring disused land back into beneficial use. The site is currently neglected former industrial land. Restoration of this use is not considered appropriate in this predominantly residential area. The site is appropriate in terms of site area as a gypsy/traveller site though may be isolated. However, discussions are on going with adjoining landowners which means the site is not available for use by GTTS.

Q9.1 Are the site allocations soundly based? In particular:

- Is the site allocation consistent with the plan's overarching strategy for the location of development? Is it of strategic importance to the delivery of the plan's overarching strategy?
- What is the likely effect of the allocation in relation to the following factors, where relevant:
 - The highway network and other infrastructure, such as health and education facilities, the national grid electricity transmission network, and open space.
 - Flood risk.
 - Air quality.
 - Land contamination and stability, minerals and waste, and noise.
 - Heritage assets and their significance.
 - Local environment and character.
- Is the amount of development proposed for the allocation justified, including having regard to any constraints and the provision of necessary infrastructure and other policy requirements?
- Is there evidence that the proposed development of the site allocation is likely to be viable and deliverable in the Anticipated Delivery Timescale indicated, where relevant?
- Has any planning permission been granted and, if so, what are the details?
- Are any site-specific policies or policy requirements necessary for the soundness of the site allocation?

Q9.2 In terms of this issue, are any main modifications necessary for soundness?

The site allocations are NOT soundly based.

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of units, resulting in vacancies and underutilised sites. The Government-funded project seeks to address several underutilised and poor quality residential and commercial premises and regenerate the town centre through the consolidation of retail floorspace and the creation of new high-quality homes.

3.46 The regeneration area is in the southern part of the Sandwell Levelling Up Zone. In 2024 Government enacted secondary legislation to allow the Council to retain business rates generated above a baseline within specific sites within the Zone for 25 years. The retained business rates can be used to fund regeneration and economic growth initiatives. The Levelling Up Zone and the funding for Tipton is intended to be the catalyst for wider investment opportunities within this regeneration corridor. Further employment development will be directed towards Coneygre and Vaughan Trading Estate. Whilst these sites were identified for residential development in the last Local Plan, this has not occurred. Both are expected to deliver further employment development.

3.47 Residential development is anticipated at Rattlechain, south of Sheepwash Nature Reserve. This would see the remediation of a long-standing, problematic and heavily contaminated site, with it brought back into more efficient use and being able to assist in meeting the shortfall in housing numbers. The vision for the Dudley Port area is directed by a Garden City approach and principles, working with the area's existing attributes, namely the green space, canals and linkages.

3.48 The construction of the Midland Metro extension from Wednesbury to Brierley Hill will improve accessibility, providing sustainable modes of transport and link Sandwell to Dudley for those at work or visiting for leisure or recreation. Whilst much of the investment will be focussed on Dudley once

Q9.1 (A) SH35 AND SH36 NOT JUSTIFIED OR POSITIVELY PREPARED

The strategic importance the council has for this area is misguided and fundamentally flawed. It proposes mass build housing in an area with poor infrastructure, clogged roads and poor air quality along the Dudley Road. Firstly, it is time that Sandwell council explained why it believes that this site in proximity to the hazardous waste lagoon was ever suitable for residential development, and more concisely, why the potential use of the former sewage works was changed as described by a former senior planning manager at the council from 2004 infamously as “a crap site for residential”.

Why and who overruled professional officers from Building consultancy and development control, and on what basis of soundness was this decision reached?

>>> John Baylay 30-Apr-02 11:31:16 AM >>>

It's a crap site for residential DC and the Building Consultancy opposed the re-allocation of the site from business in the adopted UDP to residential because of the proximity of the site to Albright and Wilson Lagoon which is a chemical waste tip, but their concerns were ignored. Industrial buildings are a much better neighbour to a potentially hazardous site as this in both public safety and security terms

In my view any application for the residential development of this site could not be approved because unless the HSE and Environment Agency support the proposal and unless Rhodia (A&W's successors) provide a site investigation report of the pool's contents (which they won't), SMBC cannot show that it has discharged its duty of care with regard to the public safety of future residents of that estate. No application could be entertained until some form of risk assessment has been carried out. In the absence of any knowledge of what the lagoon contains how can the risk be assessed?

On a pedantic note the site is allocated for business purposes in the Adopted UDP. The full Council has agreed to the fairly modest departure from the plan that the proposed industrial development represented.

CC: Bird, Keith, Rice, Tony

I do believe his comments are valid. Do current officers disagree with his comments and why?

Appendix a details the history of Rattechain lagoon, and separately, **appendix b** the history of the adjacent site owned by those proposing this scheme.

Publicly the council project that this combined site is deliverable, yet privately they are worried about it, and this has been communicated to me by one councillor, unless they are just trying to spin him a line.

"I should stress that all the officers I have raised this with consider Rattlechain to be a site of great concern. A housing estate on this toxic site is not a done deal, it is clear."

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.

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

Post-16

Young people who are over compulsory school age but under 19, or aged 19 or over and for whom an Education, Health and Care (EHC) plan is maintained.

Previously developed land

Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed. Previously developed land excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

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.**

b (i) Terrible! Many residents on the Temple Way Estate raised the congestion on their estate as a major reason for signing the petition against these allocations. Their direct experiences trump any surveys or reports the council may concoct and they are equally aware of pressures on education for their children and lack of provision for everything else. There are other developments proposed in this area which will also have a serious combined effect on services.

They also raised the loss of open space and wild space as concerns. We fear that Shepwash as an open space and a nature reserve will be eroded by increased footfall and become just a dog walking area with poor nature conservation interests.

(ii) In terms of flood risk, this development sits along the River Tame. The council appeared less than transparent about its methodology and EA concerns in week 1 of the hearing sessions based on what I heard and questions the inspector raised there. The EA cannot accurately predict what may occur with this land built upon foundry sand and what may happen in any lagoon restoration infilling scheme. Where will water from the site drain to- most likely to the River Tame which is down gradient of this.

(iii) Terrible. Over 500 new occupiers with probably 2 cars each. How is this going to improve air quality in a densely packed area? How will the loss of open space and loss of trees offset this? In addition to this the contamination issues and previous issues with foundry sand on this site are documented.

(iv) **This is by far the most important issue, and please refer to the appendix A and B above.**

Appendix C details white phosphorus, the chemical which proven systemic poisoned wildfowl on the lagoon, and the risks associated with it, as well as any potential remediation. In this context the Lepus methodology is absurd under any model they claim to have used in other local plans. This site is unique in the UK. What other sites can they demonstrate that contain this chemical have facilitated housing, by leaving the waste in situ buried as a future risk when dewatering takes place?

What part do they claim has yet “to be determined”, this appears undetailed and cannot continue to be rolled over in this way every 15 years. They rejected the sewage works development, and yet this was overturned on appeal- a crazy decision by that planning inspector in 2004 where arguments were not adequately addressed about rattlechain lagoon, and the owners of this site dodged answering any questions by withdrawing their objections at the 11th hour.

(c) The projected housing numbers for this site are absurd and exceed the figure from the previous SAD in 2011. The estate cannot take these additional figures and the idea of “a garden city approach” is also nonsense with the loss of this open space. Where is the open space for this estate?

Site Ref (Site Assess. Ref)	Site Name and Address	Ward	Town	Indic. Capacity (net homes)	Gross Site Area (ha) brownfield (B) or greenfield (G)	Indicative Net Devel. Area (ha)	Net Density (dph)	Anticipated Delivery Timescale (completion year)	Further Information
SH35 (SA 85)	Rattlechain site - land to north of Temple Way, Tividale	Oldbury	Oldbury	518	14.8 G and B	14.8	35	2034-2041	Landowner in discussions to include neighbouring land. Developable area to be determined. Within Tipton and Dudley Port Regeneration Area.

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									Development proposals where adjacent to the canal should have full regard to the land contamination, water quality and land stability issues arising from this site.
SH36 (SA 86)	Land between Addington Way and River Tame, Temple Way (Rattlechain)	Oldbury	Oldbury	36	0.9 G	0.9	40	2039-2040	Awaiting discussions with neighbouring landowners. Adjacent to Community Open Space and SLINC SA041:2 Brades Hall. Within Tipton and Dudley Port Regeneration Area. Development proposals where adjacent to the canal should have full regard to the land contamination, water quality and land stability issues arising from this site.

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, the wilful and deliberately targeted destruction of habitat – an urban forest on site SH35 by the site owners made a mockery of Sandwell Council’s claimed environmental protection policies and those under Part 2 A EPA -where it is noted that Sandwell council inexplicably failed to stop this, and failed to respond to concerns in a timely manner. This has been a recurring theme with concerns about this unlicensed site, and its buried hazards in conjunction with activities which we believe should have required planning permission, scrutiny brushed aside by Sandwell Council. **Appendix D** discusses these issues with evidence. The council’s obligations we will look at further in policy SC03.

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 DEC 2023.

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 E Report to cabinet 20th July 2022** 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 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?

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, including Professor Ian Trueman and county recorders from Butterfly Conservation **HAVE** conducted recent extensive surveys on this site- whereas, the council and the developers **HAVE NOT**. Enclosed is an appraisal by Mike Poulton **Appendix F**.

He notes that records **“include uncommon, rare, and very rare Birmingham and Black Country plants and animals recorded at the Rattlechain site. Many of the species listed are exacting in their requirements which would make mitigating for their loss unrealistic. The Rattlechain site, because of what has gone on before here, is a unique habitat, with exceptional wildlife value.**

Tower Mustard is Classified as “an endangered species” in the UK and considered to be facing a very high risk of extinction in the wild. It is listed as a Priority Species under the UK Biodiversity Action Plan. Only 35 sites are recorded by Plantlife mostly in Norfolk, (where 100 plants were found at a new site in 1999) but includes 6 sites near Kidderminster in Worcestershire.

The Orchids, Pyramidal, Common Spotted and Bee, plus Common Cudweed (which is anything but common in B&BC) are worthy of mention, along with butterflies Small Heath and Green Hairstreak, and the Longhorn Beetle- associated with ancient woodland and of the few local records there are they're nearly all from Sutton Park. “

“In 2024, this site was host to an exceptionally high proportion of England’s butterfly species, with approximately 45.76% of the 59 recorded species present – an achievement rarely matched in comparable green-belt or urban areas.” Paul Dunn Butterfly and moth expert.

It is noted that the council have claimed that sites biodiversity net gain would be protected, but we fail to see how this could be mitigated with this development, and impossible to replace in their proposed BNG sites.

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.



The council have also deviated from their original claims about this site survey to West Bromwich MP Sarah coombes- Appendix G SC01730, now described as a “Preliminary Environmental Assessment (PEA)”. **Semantics and rebranding under scrutiny.**

DEC 2023 NPPF P185. *“To protect and enhance biodiversity and geodiversity, plans should: a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity⁶⁵; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation⁶⁶; and b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.”*

This site has not been studied by the council who have erased its value from assessment.

(D) Not effective

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. **THEY MADE NO REPRESENTATIONS AT ANY STAGE TO THIS EXAMINATION NOR THE REGULATION 18 OR 19 STAGES.**

There is no appraisal of this site, or its “hazardous waste area” site permit in the case of the lagoon which they do not own, 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.

Or consistent with national policy

“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?**



(F) We do not under any circumstances support residential development of this site. We believe the constraints of this site are too great to overcome, and that the council should not be promoting bad investments by land occupiers who have little intention of other than relying on

the public purse to clear up land a previous polluter has despoiled. The site is located too near to established homes to make remediation safe, and the options for the lagoon make its inclusion in this plan even worse to predict or deliver.

Specific protection should be given by the council to the habitat value of this site, and it should extend the area as a SLINC and even designate greater importance than that.

Q 9.2

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, which in turn may suggest that other sites within proposals are equally unsound.