

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

REP ID 1395

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

MATTER 11: Waste and Minerals, Constraints, and Industrial Legacy (Policies SWA1–SWA5, SMI1-SMI2, and SCO1-SCO3)

Issue 11 – Whether the plan is positively prepared, justified, effective and consistent with national policy in respect of its policies for waste and minerals, development constraints and industrial legacy.

Q11.3 Overall, are policies SCO1, SCO2 and SCO3 positively prepared, justified, effective and consistent with national policy?

Please note that the council have incorrectly labelled our response in their excel table under the wrong policy- SH03, rather than the SC03 as can be evidenced by the reg 19 form that was submitted.

Rep Id	Respondent Id	Respondent Name	Document	Document Element	Support/Object/Comment	Summary
1395	21	Friends of Sheepwash Local Nature Reserve (Mr IAN CARROLL, Chairman) [21]	Sandwell Local Plan - Reg 19 Publication	Policy SH03 - Housing Density, Type and Accessibility	Object	<p>N.B As part of this submission and including objections of soundness for SH35 and SH36, please find enclosed a petition of those named supporting these comments which should be used as a barometer of public opposition to residential development in this location. Please also refer to attached FOS evidence PDF which cites relevant material in numbered parentheses.</p> <p>We object to the soundness of this policy.</p> <p>Paragraph 1 is unsound and not justified or effective. The council should NOT allow planning applications based upon environmental consultancies reports which it has no proof are genuine or even truthful in their claims. Many claims have been made about sites SH35 and SH36 which are fantasy in terms of them being suitable for built development with professional bodies like the environment agency not believing achievable aims. This is the same rehashed scheme as the 2011 SAD, and therefore some scrutiny must be applied as to why these sites failed to come forward in the intervening 13 years since, and into the distant future of this plan in the 2030's. Many consultancies carry out desk top studies which offer no insight at all into real world events or conditions and are just written for their clients to deliver development. They are effectively a lie or disingenuous at best. Planning officers in the past have stated they are not technical experts in the fields mentioned, and so how can the council justify recommended approval without expert impartial advice- particularly on sites such as Rattlechain with no previous similar sites in the UK that have been remediated?</p> <p>"c. land that will potentially become contaminated as a result of the development"; REMOVE- THE COUNCIL ARE ENCOURAGING BREAKING THE LAW IN THIS REGARD AND ENDANGERING PUBLIC LAND AND THE PUBLIC.</p> <p>Paragraph 2 SOUND, BUT ONLY WITH REMOVAL OF P1 C</p> <p>NPPF Dec 2023 p189-191</p> <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. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life; b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation."</p>

The council state that the comment is noted, but offer no other evidence to state why we object to elements of this policy.

Our comments below relate to unsoundness of policy SC03, with particular relevance to sites SH35 and SH36 in the site allocations.

- 14.23 The presence of contamination or ground instability can affect the use of land; however, development can help address these issues and bring the land back into beneficial use.

Policy SCO3 - Land contamination and instability	
1.	<p>Planning permission will be granted for development on:</p> <ul style="list-style-type: none">a. land that is unstable;b. land that is contaminated or suspected of being contaminated due to its historic use or geology; orc. land that will potentially become contaminated as a result of the development; <p>subject to the submission of satisfactory information relating to ground conditions and the presence of ground gas, and full details of the assessment and remedial measures that will be used to deal with instability and contaminants.</p>
2.	<p>The assessment must demonstrate that:</p> <ul style="list-style-type: none">a. there will be no significant harm, or any risk of significant harm, to the health and wellbeing of people and the environment;b. there will be no current likelihood, or future risk, that watercourses and groundwater will become contaminated; andc. any necessary remedial action is undertaken to safeguard users of the land or neighbouring land both during the construction of development and following occupation.
3.	<p>The Council will support the reclamation and remediation of derelict, despoiled, degraded and contaminated land as part of the ongoing regeneration of the borough.</p>

***Not positively prepared.** All former historic and still current permitted landfill sites offer risks to future occupiers making them unsustainable, and no assessments can predict changes related to increased rainfall/climate change as happened in the case with [Zane Gbangbola](#). We support [Zane's Law](#) and its concept, and hope that this law will be put in place during the lifetime of the Sandwell local plan. These sites are not "brownfield land" in the context of national policy definition and should be excluded from residential site allocations.

***unjustified** – the plan should not support residential development as the most appropriate strategy. What alternatives have the council considered for such sites- eg nature reserves such as Sheepwash being developed where the burden of future monitoring is not as problematic regards human health? What evidence can the council possibly produce to show that such sites will not develop future harmful and unseen pollutant linkages? Numerous sites in other areas have developed such issues, and developers have also disappeared or gone into liquidation in respect of these unscripted issues that were not identified in their assessments. Research such as

[Potential pollution risks of historic landfills in England: Further analysis of climate change impacts](#) James H. Brand, Kate L. Spencer December 2023 raises concerns about *"where there is increased drought the landfill capping materials may crack, opening up new pollutant pathways, and increasing the risk of solid waste release. Changes to groundwater movement resulting from climate change may open new leachate pathways, and in England alone, thousands of historic*

landfills are in (groundwater) Source Protection Zones where modern regulations to protect drinking water supplies would not permit their construction.”

Q How can the council consider these risks AFTER the event of allowing development through this policy and then also relying on the developer to put things right? Most likely the developer would go out of business as has happened in Sandwell with developments such as the former T and S element site in Hall Green Road West Bromwich. Would the council be able to pick up the tab on putting things right, or open themselves to litigation such as the Corby case?

Is “satisfactory information” merely a transient subjective relevance to that time rather than how matters will be perceived in the future? Many contaminants have over time had exposure levels harmful to human health reduced with Pcb’s and other “forever chemicals” that were once thought “safe” now being considered far from that.

Not Effective – “ the plan should be deliverable over its period (in Sandwell’s case, by 2041) and based on effective joint working on cross-boundary strategic priorities” ; It is quite apparent that the council cannot predict when such contaminated sites could be remediated, and some have been in this condition for decades, despite claims of remediation that do not materialise. No evidence was ever produced at the last SAD in 2011, 14 years ago to prove soundness in this regard. The rattlechain lagoon has never been assessed for residential development and it is absurd to do so given the known toxic contents buried beneath the water. The council have no independent experts in this field and are reliant on the say so of those being employed by unscrupulous developers.

• **Not Consistent with national policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework.

As previously stated, but noted the council make no comment, P189-191 NPPF DEC 2023

Not appropriate location. Risks to River Tame and connected Sheepwash Nature Reserve waterbodies. Numerous existing pollution issues with this River and brook courses can be evidenced and the council are aware of these.

“Ground conditions and pollution

189. Planning policies and decisions should ensure that: a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation); b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.”

“190. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.”

It is quite apparent that in the case of site SH35 split into two ownerships that this matter is not straight forward and that land ownership may change or become clouded by legal arguments as to who is to blame for historic pollution. Owners of the lagoon have previously claimed that their boundary bore hole monitoring has shown ground gas emanating from the adjacent separately owned site.

Site investigations have not been adequate and SMBC have no way of measuring their reliance because they do not have relevant experts or ability to undertake their own checks and balances. This policy places too much reliance on environmental consultants who are being paid by developers to produce results favourable to their planning applications.

Take for example recent issues with [the Midlands Metro and the significant damage that has occurred to existing properties that were built on this corridor](#). Were these cracks foreseen when the Metro scheme was approved?

['We bought our new-build homes for £400k but a massive landslide has cut us off' - Birmingham Live](#)

Was this landslide foreseen? Yet there are plans to build more houses in the same area!

“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. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life⁶⁹; b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”

Landfill sites are not safe for human health. Sites SH35 and SH36 are examples of identified “tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason”, but Sandwell council have not recognised this and have not undertaken any evidence from their own ecologist because they have not undertaken site investigations.

Q11.4 In terms of this issue, are any main modifications necessary for soundness?

Yes, removal of all former landfill sites from residential site allocations within the plan and their acceptance that future risk outweighs built development upon them.