

Mr Laurence Jackson
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Our ref: UT/2006/000347/SL-02/SB1-L01
Your ref: SADPolSpecConsultL
Date: 26 September 2011

Dear Mr Jackson

**PUBLICATION OF THE SANDWELL SITE ALLOCATIONS AND DELIVERY
DEVELOPMENT PLAN DOCUMENT – SEPTEMBER 2011**

Thank you for consulting the Environment Agency on the above publication document that was received on 5 August 2011.

The Environment Agency has made previous representations regarding the Site Allocations (SA) and the Delivery Plan Document (DPD). This was most recently in our letter of 4 May 2011, ref: UT/2006/000347/SL-01/IS2-L01 for the draft Policy Consultation. Prior to that in our letters of 17 December 2010 and 31 January 2011, with ref: UT/2006/000347/SL-01/IS1-L01 and UT/2006/000347/SL-01/IS1-L02 respectively for Site Allocations.

We have reviewed both parts of the submission document and would provide the following representation.

Delivery Plan Document

Having reviewed the Delivery Plan Document we are satisfied with the changes made and consider they include our previous recommendations. With regard to specific changes we would comment as follows:

SAD EMP 3 – Design of New Waste Management Facilities

4.11, pages 18 – 19 – We note that our previous representations on waste have not been incorporated in any form. It is disappointing not to see a more locally specific steer than that of the Core Strategy. However, we do not consider the document is unsound on this basis as the Core Strategy policies are in place. If minor amendments are sought we strongly recommend a more local consideration of protection of waste sites and opportunities for relocations is proposed.

SAD EOS 5 – Environmental Infrastructure

8.14, page 40 - We welcome the changes made to the supporting text for this policy. The references to the EIG Action Plan ensure its requirements are considered within new developments.

SAD EOS 7 – Floodlighting, Synthetic Turf Pitches and Multi Use Games Areas

8.16, page 41 - We welcome and support the changes made to this policy. We are satisfied that the changes made reflect our previous representation.

SAD EOS 10 – Design Quality & Environmental Standards

We welcome and support this new additional policy.

SAD DC 1 – Areas affected by Abandoned Limestone Mines

9.1, page 44 - We note changes made to the wording in light of our previous representation.

Although we do not consider the wording of the policy is unsound, if minor amendments are sought, we would recommended the following rewording:

'Where a development involves the stabilisation of such workings by grouting or similar engineering solution the developer will be required to undertake an assessment of the potential of these activities to adversely impact ~~Licensed Groundwater Abstractors~~ those parties abstracting groundwater and who are defined as Protected Rights or Lawful Users under the Water Resources Act 1991.'

We consider the wording would be made stronger by using the correct terminology from the Water Resource Act 1991 and amendments by using the terms "Protected Rights" (which are licensed abstractors) and "Lawful Users" (these have a right to abstract water but are not licensed but are afforded nearly as much protection under the Act as Protected Rights, for example, exempt abstractions and private water supplies).

SAD DC 6 – Land Affected By Contaminants, Ground Instability, Mining Legacy Land of Unsatisfactory Load Bearing Capacity Or Other Constraints

9.13, page 48 - We note the changes made to this policy as per our previous recommendations and welcome the additions made. This ensures the policy now enables informed and structured decision making in line with Government Policy.

Site Allocations

In our previous representations we raised concerns that further evidence with regard to flood risk and contaminated land was required to support the inclusion of specific sites. The following sites are currently not founded on a robust and credible evidence base and we therefore consider they are unsound. Further work is required to ensure they are suitable for delivery.

To reiterate from our previous response, Level 2 Strategic Flood Risk Assessments (SFRA's) are required to be undertaken to support the DPD where the Level 1 SFRA or flood mapping has identified that the site is subject to flooding.

We recommend that until Level 2 SFRA's or further evidence is provided for the following sites they should currently be withdrawn:

Corridor 8: Hill Top

Area H8.8 – Great Bridge, ref 246, pg 63

We note that the 'Site Specific and Delivery Issues' for this area state that the Beever Road and Great Bridge, is located within Flood Zone 1. This is incorrect. As stated in our response ref: UT/2006/000647/SL-01/IS1-L01, dated 31 January 2011, the site has a significant extent in Flood Zone 3.

This site is now proposed for residential development and in line with Planning Policy 25 (PPS25) this use is classified as more vulnerable (Table D.2 of PPS25) and is therefore not considered suitable within flood zone 3 (Table D.1 of PPS25).

We welcome and support the separate section on environmental infrastructure and we note the reference to the issue of flood risk within paragraph 12.34. However, before this site can be taken forward further evidence must be provided to ensure it is safe and deliverable.

Corridor 9: Dudley Port/ Tividale/ Brades Village

Area H9.3 – Rattlechain, ref: 88, 752, 754, 1004, pg 77

We welcome that flood risk has been identified as a delivery issue for this site. However, we would not pursue this matter as the flood risk is minimal. Of greater concern is the issue of remediation of this site.

We would reiterate our previous comments from our letter of 17 December 2010, ref: UT/2006/000347/SL-01/IS1-L01 as follows:

There is one site which the Environment Agency considers has contamination/pollution problems so severe that it will pose a significant barrier to development of the land. The Rattlechain area (9.3) in Regeneration Corridor 9 includes the Rhodia Lagoon, which contains toxic phosphate sludges. The Rhodia Lagoon has a Waste Licence which allowed them to deposit spent phosphorous sludge as a bi-product from their process. This operation has been undertaken for many years prior to the implementation of early waste disposal legislation (Control of Pollution Act 1974). Tipping before this date was not controlled nationally and we understand that other phosphor based materials may have been deposited.

The site currently holds an Environmental Permit from the Environment Agency, and we are currently in discussion with Rhodia regarding semi-permanent engineering solutions which would satisfy the requirements for site "closure" as per the permitting requirements. By their nature these sludges are so unstable that any attempt to remediate the lagoon would not only pose a significant health and safety risk, but would also be so costly that it would not be financially viable to remediate the land for redevelopment. Therefore, the permanent removal and disposal of this material elsewhere or the restoration of the site to a standard that would facilitate development will be very expensive and is likely to be cost prohibitive.

The adjacent Rattlechain Landfill operated most recently by Mintworth Quays also has a previous licensed history as the Duport Rattlechain Tip. The operations on this site by this operator also predates the waste licensing regime by many years

and the site would need extensive investigations to determine the remediation measures required to make it safe for housing development in view of the historic uncontrolled tipping. A report for the Black Country Development Corporation by Cremer and Warner pointed out that this site had more potential to pollute adjacent Controlled Waters than the adjacent lagoon and we would want any remediation to address this issue and remove the risk of pollution of the adjacent River Tame.

We also consider this allocation conflicts with Policy SAD DC 4 – Pollution Control, as it can not currently be proven that the siting of residential development at this location would not have a detrimental impact on the health or amenity of future occupiers.

In light of these constraints to development we advise that the Rattlechain site is withdrawn from your site allocation proposals as the remediation required to secure its redevelopment is unlikely to occur.

We would expect comments to be obtained from Your Authority's internal Contaminated Land Team on this consultation as we suspect they would also have similar concerns.

Area H9.4 – Vaughan Trading Estate, ref: 1240, pg 77

As discussed, via email with us previously, our latest flood maps are now showing this site significantly within flood zone 3. This is the best information currently available. Therefore before this site can be taken forward a solution to the risk identified must be sort.

This site is now proposed for residential development and in line with PPS25 this use is classified as more vulnerable (Table D.2 of PPS25) and is therefore not considered suitable within flood zone 3 (Table D.1 of PPS25).

We welcome paragraph 13.42 with respect to flood zones, but to take the Vaughan site forward further evidence will need to be provided to demonstrate this site is suitable for residential development.

Summary of Environment Agency Representation

Sound/ Unsound	Page, Para, Policy, Regeneration Corridor	Test of Soundness	Details of changes	Matter previously raised.
Unsound	Pg 63, 8 Hill Top, ref no. 246	Further evidence required	Removed from allocations until Level 2 SFRA undertaken.	Yes, draft Site Allocations, Nov 2011
Unsound	Pg 77, 9 Dudley Port, Area H9.3	Further evidence required and not deliverable	Removed from allocations until it can be demonstrated that it is feasible and safe or allocated for alternative suitable use.	Yes, draft Site Allocations, Nov 2011
Unsound	Pg 77, 9 Dudley Port, H9.4	Further evidence	Removed from allocations until Level 2 SFRA undertaken.	No, site placed in floodplain following

				latest flood mapping update.
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The Environment Agency can confirm that we consider it necessary to participate at the Examination in Public for all above representations. We would however endeavour to work with Sandwell to resolve the above matters prior to the Examination.

Although we do find parts of the document unsound it is clear that current evidence from the SFRA, the Water Cycle Study and the emerging SWMP have been utilised.

Additional comments for consideration

Although we would not state the site allocations are unsound with regard to the following comments we consider they should be taken into consideration:

Area H9.8 – Alexandra Road, ref 302, pg 79

We acknowledge that additional work has been undertaken at Alexandra Road to ensure this site can be developed in accordance with PPS25.

Area H13.6 – North of Cradley Heath Town Centre, ref 933, pg 113

We welcome the comments with regards to the green buffer to address the issue of flood risk. The extent of the buffer may affect estimated capacity.

We welcome and support paragraph 15.41, page 117. We would like to see the wording within this paragraph used in other parts of the document, particularly Corridors 8 and 9. The reference to *'where housing growth areas adjoin or include the Flood Risk Zones, no development will be allowed within the areas at risk; the opportunity will be taken to enhance the river corridors with new or enhanced green infrastructure'*, should apply to all corridors where flood risk has been identified.

Area H16.2 – Bloomfield Road/Barnfield Road, pg 124

We welcome the work being undertaken, as described in paragraph 16.29, page 127. We concur with the statement *'where housing growth areas adjoin or include the Flood Risk Zone, no development will be allowed within the areas at risk.'* Again this statement applies to Corridors 8 and 9.

Sites, E12.15 -Cornwall Road, Smethwick, E12.16 - Bridge Street Industrial Estate and E12.17- Foundry Lane, Smethwick are located within Flood Zone 3. This is the best information currently available. The sites are proposed to remain classified as employment; therefore there will be no change in vulnerability classification. The sites would in accordance within table D.2 of PPS25 remain 'Less Vulnerable'. Less vulnerable development is classified as an appropriate use (Table D.1 of PPS25) within flood zone 3.

We welcome the key that accompanies the Regeneration Corridor map. However its location within the document did make it difficult to navigate. It would be better placed just before the maps.

Some of the indicators on the maps are also not within the key. For example there is no indication as to what the dark blue areas are. There is also no key for culverted or open water courses although they are demonstrated on the maps. It also difficult

to differentiate between 'Future Red Routes', 'Fragmented Residential Areas' and culverted and open watercourses.

We welcome the comments with respect to the Surface Water Management Plan (SWMP) and continue to be involved in this process. As with the West Bromwich Area Action Plan, on completion of this work, sites that are allocated within this document that are shown to be at risk of surface water flooding and are not covered by policy ENV5 of the Core Strategy will need to address this issue on a site by site basis.

Sites that have watercourses through them or adjacent to will be required to provide easements. This may affect the current estimated capacity of the sites. These sites are as listed on pages 3 and 4 of our previous response dated 31 January 2011, ref: UT/2003/000347/SL-01/IS1-L02 and page 6 of our letter dated 17 December 2011, ref: UT/2006/000347/SL-01/IS1-L01.

To reiterate, with regard to the above comments, we do not consider the Site Allocations and Delivery Development Plan Document unsound, if minor amendments are sought, we strongly recommend these comments are taken into consideration.

We hope you find the above presentation clear. If any clarification is required, please do not hesitate to contact us.

Yours sincerely

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