

Local Plans Team  
South Staffordshire District Council  
Forward/Local Plans  
Council Offices  
Wolverhampton Road  
Codsall  
Wolverhampton  
WV8 1PX

**Our ref:** UT/2006/000320/CS-  
08/SB1-L01  
**Your ref:**  
**Date:** 21 December 2022

Dear Local Plan Team

## **SOUTH STAFFORDSHIRE LOCAL PLAN REVIEW REGULATION 19 PUBLICATION PLAN CONSULTATION**

I write in response to the above consultation which was received on 10 November 2022.

The Environment Agency can confirm that although there are matters which could be further expanded or policies improved, we do not consider the plan to be unsound.

We have reviewed the Publication Draft and the supporting evidence base and have the following observations to make.

### **Water Cycle Study**

The Phase 1 Scoping Water Cycle Study, undertaken by JBA in February 2020 has not been updated since our previous comments in relation to this plan which highlighted where assessments were out of date. Since these comments were made, the Tame, Anker & Mease and Worcs Middle Severn ALSs (paras 4.2.4 and 4.2.5 respectively) were updated in Summer 2022.

It would be useful to understand what discussions the Council has had with the water companies regarding timescales for development and how Severn Trent Water and South Staffs Water will meet the new demand arising from development in the South Staffs area (and not forgetting that other councils will also be having new developments in their areas - the cumulative impact of development across the West Mids).

As advised previously we recommend these issues are explored in greater detail either through consultation with the water utility providers or in any updated WCS that may be undertaken in support of this plan. As there has been no Detailed WCS

Environment Agency  
9, Sentinel House Wellington Crescent, Fradley Park, Lichfield, WS13 8RR.  
Customer services line: 03708 506 506  
[www.gov.uk/environment-agency](http://www.gov.uk/environment-agency)

Cont/d..

published, we trust that this matter has been discussed between your Authority and Severn Trent Water to ensure the implications of the proposed growth on this resource has been fully explored.

Despite your WCS being out of date in relation to water stress classifications, we welcome the requirement to limit water usage to 110 litres per head per day as stated within Policy NB6: Sustainable construction.

In July 2021 Defra announced that South Staffs Water and Severn Trent Water's supply regions are now considered to be in "serious water stress" for the purposes of water resource planning. This allows the companies to consider compulsory customer water metering as part of its next Water Resource Management Plans. Further information is available at:

<https://www.gov.uk/government/publications/water-stressed-areas-2021-classification>

Accordingly, we agree with the recommendation in section 4.9 of the WCS for standards of water efficiency of 110 litres per head per day, which is reflected within Policy NB6. It should be highlighted however, that this requirement is a minimum only and developments that choose to go beyond this should be supported by the plan. Further limiting water consumption and encouraging re-use would provide additional benefits in relation to managing the pressures of climate change.

Having reviewed policy NB7 we are satisfied that all matters in relation to the protection of water quality have been addressed, including SuDs, consideration of sewer capacity and their impact on the environment and phasing of developments to ensure infrastructure is in place before occupation.

We welcome the submission of additional updated information relating to foul drainage sewer capacity contained within Appendix B of the IDP: Severn Trent Water Sewer Capacity Assessment – September 2022, which does not show any sites as being flagged as Red. Potential concerns are flagged in the commentary though which highlights the assumption that surface waters will be directed AWAY from any combined sewer systems, otherwise problems with capacity and pollution occurring may ensue. We note the push for SuDS use within Policy NB7, but recommend it may be pertinent to add in a specific reference within the policy body to ensure discharges are not made into the combined sewer system, within particular consideration or where surface water capacity is flagged within this report as Amber. It should be clear within the policy and its supporting text that early engagement with Severn Trent Water Ltd is imperative to ensuring a sustainably drained development.

### **Site Allocations**

We have reviewed the Level 2 SFRA referenced A1-C02/November 2022 undertaken by JBA Consulting and submitted in support of this consultation.

We welcome the addition of a Level 2 SFRA which we helped advise on, as we recommended this was provided at the Preferred Options stage to ensure both mapped flood risk and unmapped flood risk was fully taken into account in the site allocations. The Level 2 SFRA shows that the critical 1 in 100 year plus climate change flood extent encroaches (albeit largely into public open space) on the following sites:

- Site Ref 119a
- Site Ref 284

- Site ref 139
- Site Ref Land North of Penkridge
- Site Ref SA1
- Site Ref SA4

The SFRA confirms that for the majority of these sites the encroachment is only minor. *‘Only one site, 0119a, is predicted to be at more extensive risk of flooding. All sites will require more detailed investigations on sequential site layouts, SuDS possibilities, safe access, and egress, etc. as part of a site-specific Flood Risk Assessment at the planning application stage.’*

The Exception Test as defined by NPPF paragraphs 14 and 165 is required for these allocations, and the SFRA states that *‘it is possible for all sites assessed in the Level 2 SFRA to pass the flood risk element of the Exception Test and for the principle of development to be supported’* by the development taking certain measures such as sequentially laying out the site and ensuring there is safe access and egress.

All these sites will therefore require a site specific FRA which shows development laid out as to avoid the floodplain and finished floor levels 600mm above the 1 in 100 plus climate change flood level. This should be detailed within the allocation requirements. In addition, the quantum of development should be reviewed to ensure that it can fit onto the area outside the 1 in 100 plus climate change flood event, with particular note of 119a which shows about a third of the site affected by flooding.

Chapter 3.5 of the SFRA addresses the need for these site allocations to be supported by a Sequential Test to demonstrate there is no other land reasonably available at a lower risk of flooding in line with NPPF paragraph 162. Figure 3-1 summarises the Sequential Test and further guidance on how it should be applied is included within the recently updated NPPG. As the SFRA states, *‘the Sequential Test can be undertaken as part of a Local Plan Sustainability Appraisal. Alternatively, it can be demonstrated through a free-standing document, or as part of Strategic Housing Land or Employment Land Availability Assessments.’*

The SFRA states that *‘For South Staffordshire, the Sequential test has been undertaken collaboratively with Staffordshire County Council as LLFA. Sites were first screened based on fluvial flood zones Following the initial screening of sites, the LLFA was consulted and sites with flood risk issues that could not be mitigated were filtered out. Sites at risk of flooding from smaller watercourses (not covered by Flood Zones) or at risk from other sources of flooding (including surface water) were taken forward for a Level 2 assessment ( see Appendix A).’*

Although referenced within the Sustainability Appraisal it is unclear where the evidence sits to clearly demonstrate how the proposed site allocations have had the Sequential Test applied as is required by Paragraphs 161 and 162 of the NPPF. We recommend this is clearly signposted as part of the Examination to ensure clear compliance with the NPPF.

The level 2 SFRA shows the 1 in 100 plus climate change extent only borders the following sites, and as such they are located in low risk Flood Zone 1. We recommend however given the proximity of the fluvial floodplain, residual risk should be mitigated for by it being required that finished floor levels are set at or in excess of 600mm above the 1in 100 year plus climate change for that specific location.

- Site Ref 617

- Site Ref 646a.
- Site Ref 646b

### **EPR regulated sites**

Our previous comments in relation to the Preferred Options sites raised concerns about the location of some sites located within close proximity to waste management sites or installations covered under the Environmental Permitting Regulations.

Paragraph 187 of the NPPF states that ‘Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established’. It states that where new land uses (the Agent of Change) could have a significant adverse effect on an existing land use suitable mitigation should be provided before the development has been completed.

In our previous response to this plan we flagged a number of sites which were proposed to be located within close proximity to existing facilities and operations regulated by the Environment Agency under the Environmental Permitting Regulations. These comprise strategic allocations SA1, SA4 at Penkridge and Bilbrook and to a lesser extent 016 land at Pear Tree Farm. It is currently unclear how paragraph 187 applies to these proposed allocations.

It should be highlighted that EPR regulation does not set and enforce a “Zero pollution/emissions” level at the site boundary. At the time the permit was issued we assessed that the activity and controls would normally not cause unacceptable issues for local receptors at the time the permit was issued.

The Environment Agency do not review/amend permits every time there is any new development to require that emissions are reduced further to protect the new development, or if necessary require the site to closed down.

Paragraph 187 establishes a principle that whoever was there first should be protected from whoever comes along subsequently. This means that the new residential developments are impacting on the existing regulated activity, and are now the “Agent of Change”, therefore are responsible for assessing the impacts of the existing operations and propose suitable mitigation measures.

Paragraph 009 of the PPG [Noise - GOV.UK \(www.gov.uk\)](https://www.gov.uk) provides further guidance on the NPPF’s policy on Agent of Change, and makes it clear this applies to not just noise, but other pollutants including odour. Paragraph 010 then goes on to explain how the planning system can mitigate these effects.

We recommend your planning policies ensure that appropriate assessment and mitigation can be carried out by the agent of change (ie residential allocations) and consideration of this at a later stage is not hamstrung but indicative layouts or housing numbers fixed with the plan for example.

Where any mitigation is not practical, properties should not perhaps be built close to the site perimeter, so a buffer/dead zone is still required to separate the facility from residents. Consideration should be given to dispersion modelling, installing odour control equipment, screening or dense trees and also monitoring equipment. Local terrain, topography and micrometeorology can have an effect.

It is also of note that paragraph 187 says mitigation should be installed when the development is ‘completed’, however this could take years for strategic allocations developed in phases, with initial residents already impacted.

In light of the above we recommend strategic policies SA1 and SA4 reference the risks associated with their proximity to such facilities, and the need for assessment and/or mitigation measures in order to inform and steer the forthcoming SPD masterplanning process. The policies should remain suitably flexible to accommodate any mitigation through design measures that may be appropriate.

Such strategic allocations should ensure that occupants of those new homes and users of any other associated amenities are suitably protected by effective mitigation measures from impacts from the existing facility, especially but not limited to odour.

If these measures are impractical, informed by suitable assessment or modelling, in consultation with the environmental health team, it may be that houses or other development should not be located closer to the site than appropriate to prevent regular amenity complaints, with a suitable buffer zone (rather than a public park) agreed with the EHO, in line with any relevant guidance and potentially informed by modelling. Long term monitoring by the developer may be required to ensure mitigation remains effective for the lifetime of the operation.

#### Site 519 (SA1) Land East of Bilbrook

Sun Valley Foods Billbrook, located on the Balliol Business Park is regulated by the Environment Agency under their Environmental Permit Ref: EPR/FP3930PJ. This installation is a food production facility that operates under S6.8A(1)(d)(i) allowing treatment and processing of raw animal materials (other than milk only), whether previously processed or unprocessed, intended for the production of food with a finished production capacity greater than 75 tonnes per day. Under S5.4A(1)(a)(ii) it also allows the disposal of non-hazardous waste in a facility with a capacity of more than 50 tonnes per day by physico-chemical treatment.

In 2020 the facility had an increase in capacity which required a variation to the permit and as a result they carried out some modelling of odour emissions. When the permit was issued they were required by way of an improvement plan to carry out some monitoring of the odour concentrations against those that were predicted.

Their initial results prompted them to install some additional odour abatement, however the results after some further monitoring indicate that odour is above the predicted levels that were modelled, although we are awaiting their full report. This however does raise further concern that odour may become an issue if residential land uses are constructed directly opposite the public highway from the site, as it is considered very difficult for the operator to install further abatement that would remove odours completely - particularly in such close proximity.

The main infrastructure on site includes:

- 2 x 7.1MWth gas fired-boilers
- 1 x 3.5MWth standby boiler
- 1 x 3.5MWth thermal oil heater
- 1x 0.6MWth thermal oil heater
- Fryer stack and other roof top venting points
- Effluent Treatment Plant which includes a DAF (Dissolved Oxygen Flotation) tank
- Refrigeration Plant (Ammonia)

In addition to the above issues your Authority should be aware that residual waste from the processing could comprise off spec product, offcuts and residual waste meat removed during cleaning which would be contained in a covered trailer outside. This is not usually a refrigerated trailer so opening and loading it, especially

during warm weather may result in odour emissions (although these trailers do tend to be removed on a daily basis).

Whilst vehicle movements are controlled by planning permission rather than the Environmental permit, on site operations include vehicles on and around the site, with reversing beepers and diesel engines including refrigerated trailers, these may be used 24/7. Noise from this activity has been identified as causing a nuisance at other similar sites regulated sites where housing has been built in close proximity.

The site is currently surrounded by agricultural land and industrial development but the proposals under site Ref 519 would bring the large housing development approximately 75m from the facility. Food production operates 24/7 which includes the use of ovens and fryers to cook the food and chiller units to freeze the product before it leaves site in refrigerated trailers. The facility also has effluent treatment, external storage of waste product and of course incoming and outgoing vehicle movements with audible alarms, therefore there is a possibility that amenity issues could be experienced despite the appropriate measures the operator is required to take to reduce their impact.

Bilbrook HWRC, a small well run site currently owned by Amey Highways is also nearby. Your Authority should be aware however that 4 years ago it was quite a contentious site with significant noise complaints from residents, to the extent that public liaison meetings were needed. Our permitting team worked with the site to make improvements (they have a noise management plan) and it has been fairly quiet and well run since then. There does remain potential for this to be a problem if residential receptors are brought closer to the site than at present.

#### 420, 584 and 010 (SA4) Land North of Penkrige

Lower Drayton Farm Anaerobic Digestion facility is permitted and regulated by the Environment Agency under permit reference EPR/EP3507BH. The Installation is a new biological treatment facility treating agricultural wastes to produce biogas. It operates under a S5.4 A(1) (b) (i) activity enabling a Recovery or a mix of recovery and disposal of non-hazardous waste with a capacity exceeding 100 tonnes per day involving biological treatment. The site can process up to 41,000 tonnes of the agricultural feedstocks annually, this will consist of poultry manure, farmyard manure, straw and silage.

The main infrastructure on includes:

- 4 x silage clamps (total 12,000 tonnes capacity)
- 2 x digesters (3,325 m<sup>3</sup> and 4,619 m<sup>3</sup> capacity)
- Digestate storage tank (3,325 m<sup>3</sup>)
- Ammonia scrubber
- 1.34 MWth combined heat and power engine;
- Dirty water lagoon (1,140 m<sup>3</sup>)

The proposals put forward under site ref 420, 584 and 010 will bring housing development adjacent to the permitted area and potentially expose new residents to amenity issues such as odour and noise either from the permitted facility or waste haulage vehicles entering and exiting the site. Although the site plans have been amended we still have concerns about the indicative concept plan which includes a community park and other potential development site/sport pitches adjacent to the AD site. Development in these areas could place unreasonable restrictions or expectations on this existing facility as a result of development permitted after they were established. We have not received substantial numbers of odour complaints to

date about this site but this could change significantly if it no longer remains relatively isolated from sensitive receptors.

The operator is permitted to accept wastes from agriculture, horticulture, aquaculture, forestry, hunting and fishing including animal faeces, urine and manure (including spoiled straw) only. There is also the potential for the operator to accept other waste streams subject to appropriate authorisations being applied for. Any new housing development could place unreasonable restrictions or expectations on this existing facility as a result of development permitted after they were established.

#### 016 land at Pear Tree Farm

This site is proposed close to SB Waste Management (Huntington) The site is a relatively small scale transfer station. Amenity issues are likely to be raised by any developments adjacent to the site. Litter has been an issue in the past and the site can sometimes have larger piles of waste building up (skip waste) due to having to wait for walking floor vehicles to come from their parent site in Wolverhampton.

#### **NB7 – Managing flood risk, sustainable drainage systems & water quality**

We strongly support the addition of points in this policy in relation to the safeguarding of land for flood risk management purposes. This approach is in line with planning policy guidance which states *‘If an area is intended to flood, e.g. an upstream flood storage area designed to protect communities further downstream, then this should be safeguarded from development and identified as functional floodplain, even though it might not flood very often’*. It is also supported by 10.3 of the 2019 Level 1 SFRA.

We do recommend however that the following changes (previously advised) are made to the policy to strengthen it and bring it in line with the recommendations sections 10.3 and 10.2 of the 2019 Level 1 SFRA, the main part of your flood risk evidence base which should be informing these policies. Your recent Level 2 SFRA reconfirms these policy recommendations and supplies additional recommendations in Chapter 7 relating to cumulative and cross-boundary impact which should also be considered.

- The policy should state *“Developments should, where possible naturalise urban watercourses (by reinstating a natural, sinuous river channel and restoring the functional floodplain) and open up underground culverts, to provide biodiversity net gain as well as amenity improvements”*. The River Basin Management Plans for your district provide additional detail on the de-culverting and the creation of naturalised watercourses and should be referenced in this section.
- The policy should state that *“Development should not take place over or within 8m of culverted watercourses”*. This is to protect the structural integrity of these watercourses and to allow essential access for flood risk maintenance should the culvert collapse and cause a blockage, or need repair.
- The policy should state that *“Where it is not always possible to direct development to sites with the lowest probability of flooding, the development should seek to minimise risk to the site and make the development resistant to any residual risk and make the development flood resilient. Opportunities should also be sought to reduce the overall level of flood risk through the layout and form of development. Development should be designed to be safe*

*throughout its lifetime, taking account of the potential impacts of climate change. Provision for emergency access and egress must also be included”.*

- *The policy should state that “All developments should seek to provide wider betterment by demonstrating in site-specific flood risk assessments and surface water drainage strategies (where required) what measures can be put in place to contribute to a reduction in overall flood risk downstream. This may be by provision of additional storage on site e.g. through oversized SuDS, natural flood management techniques, green infrastructure and green-blue corridors and / or by providing a partnership funding contribution towards wider community schemes. The developer should consult with the relevant authority at the earliest opportunity”.*

This Policy currently states *“All More Vulnerable and Highly Vulnerable development within Flood Zone 2 and 3 should set finished floor levels 300mm above the known or modelled at 1% and 3.3% annual exceedance probability (AEP) flood level, including an allowance for climate change in accordance with the latest National guidance”.* It is imperative that this is changed to state **600mm** instead of **300mm**. 300mm is significantly under the current level of protection that is required to be offered. If this were implemented, residents in South Staffordshire would have a significantly increased risk of flooding than those in neighbouring areas. This is supported by 8.3.3 and 10.2 of your Level 1 SFRA.

If you have any queries please contact me on the details below.

Yours sincerely

**Ms Jane Field**  
**Planning Specialist**

Direct dial 020 3025 3006

Direct e-mail [jane.field@environment-agency.gov.uk](mailto:jane.field@environment-agency.gov.uk)