

Planning Policy Comments

Date:	20/12/2023
Reference number:	DC/23/68822
Address:	Land Adjacent To Q3 Academy, Wilderness Lane, Great Barr, Birmingham
Officer:	

Description of proposals

Proposed 150 dwellings, a countryside park and associated works (Outline application for access only).

Relevant policies

Black Country Core Strategy (BCCS) (2011)

- BCCS CSP1 – the growth network
- BCCS CSP2 – development outside the growth network
- BCCS CSP3 – environmental infrastructure
- BCCS CSP4 – place making
- BCCS DEL1 – infrastructure provision
- BCCS HOU1 – delivering sustainable housing growth
- BCCS HOU2 – housing density, type and accessibility
- BCCS HOU3 – delivering affordable housing
- BCCS TRAN2 – managing transport impacts of new development
- BCCS TRAN4 – creating coherent networks for cycling and walking
- BCCS TRAN5 – influencing the demand for travel and travel choices
- BCCS ENV1 – nature conservation
- BCCS ENV2 – historic character and local distinctiveness
- BCCS ENV3 – design quality
- BCCS ENV5 – flood risk, SUDS and urban heat island
- BCCS ENV6 – open space, sport and recreations
- BCCS ENV7 – renewable energy
- BCCS ENV8 – air quality

Sandwell Site Allocations and Delivery DPD (SAD) (2012)

- SAD H2 – housing windfalls
- SAD H3 – affordable housing
- SAD TRAN3 – car parking
- SAD HE1 – listed buildings
- SAD HE5 – archaeology & development proposals
- SAD EOS1 – the green space hierarchy
- SAD EOS2 – green belt
- SAD EOS4 – community open space
- SAD EOS5 – environmental infrastructure
- SAD EOS9 – urban design principles
- SAD DC4 – pollution control
- SAD DM1 – access for disabled people
- SAD DM5 – the borough's gateways

National Planning Policy Framework (NPPF) (2023)

In particular:

Paragraph 11 – the presumption in favour of sustainable development
Chapter 5 – delivering a sufficient supply of homes
Chapter 12 – achieving well-designed places
Chapter 13 – protecting green belt land
Chapter 15 – conserving and enhancing the natural environment

Supplementary Guidance

Residential Design Guide SPD (2014)
Black Country Air Quality SPD (2016)
Planning Obligations SPD (2015)
Building for Life SPD (2011)

Comments

Section 38 of the Planning and Compulsory Purchase Act (2004) requires that applications for planning permission must be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan policies that are applicable to the application proposals are set out in the Black Country Core Strategy (BCCS, adopted 2011) and the Sandwell Site Allocations and Delivery DPD (SAD, adopted 2012).

The SAD policies map shows that the application site is wholly within the Green Belt, is a Site of Importance for Nature Conservation (SINC) and is within an Area of Potential Archaeological Importance. The site is also within a Borough Gateway.

The Spatial Strategy

The spatial strategy for the Black Country is set out in Chapter 2(d) of the BCCS. Policy BCCS CSP1, 'The Growth Network', explains how by 2026 the Strategic Centres will "be the area of greatest concentration of redevelopment and regeneration" and will act as a focus for high density housing. The policy explains that the Strategic Centres will be linked by a network of Regeneration Corridors that will provide new residential communities.

The application site is not within a Strategic Centre, nor within a Regeneration Corridor, and is located outside of the Growth Network. Policy BCCS CSP2 explains that residential development outside the Growth Network will be directed to housing renewal areas, the remaining centres, and previously developed land. The policy is clear that Green Belt boundaries will be maintained and protected from inappropriate development in order to "promote urban renaissance within the urban area and provide easy access to the countryside for urban residents where the landscape, nature conservation and agricultural land will be protected and enhanced where practical".

The application site is located within the Green Belt and the proposals for residential development would directly conflict with the aims of policy BCCS CSP2.

The application site encompasses land designated as a SINC. Policy BCCS CSP3 requires development proposals to demonstrate that the strategic network of environment infrastructure will be protected, enhanced and expanded at every opportunity, and states that the Local Planning Authority will resist any development that compromises the integrity and quality of environmental infrastructure.

Greenbelt

Policy context

Policy SAD EOS2 states that inappropriate development within the Green Belt, as defined in PPG2, “will not be permitted except in very special circumstances, where the harm of the development is clearly outweighed by other considerations.”

PPG2 was withdrawn in March 2012. Nevertheless, the policy test to demonstrate ‘very special circumstances’ remains applicable and is set out at paragraph 152 of the NPPF (2023). Paragraph 152 is clear that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. It is considered that policy SAD EOS2 is in conformity with the NPPF.

Paragraph 153 of the NPPF goes on to explain that “when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”

The proposals for residential development constitute inappropriate development within the Green Belt. The applicant has set out a few benefits of the proposed development within the submitted Planning Statement which collectively form their case for very special circumstances. Matters which relate to planning policy are addressed within this response.

Green Belt evidence base

The most recent Green Belt Assessment for the borough was produced by LUC in September 2019 to support the production of the, since abandoned, Black Country Plan. The Assessment forms part of the evidence base for the emerging Sandwell Local Plan.

The Assessment rates strategic parcels of the Black Country Green Belt as to how they contribute to the 5 purposes of the Green Belt (as understood by NPPF paragraph 143), the harm which would be caused by the removal of parcels from the Green Belt to the integrity of the remaining Green Belt, and how far the landscape character of each of the Green Belt parcels would be sensitive to development.

For the Green Belt element of the Assessment, the application site is wholly within parcel B81 (Wilderness Lane). The parcel includes further land to the south and south west at Hill Farm Bridge and Q3 Academy. The Assessment concludes that the parcel makes the following contribution to the 5 purposes of the Green Belt:

P1: Checking the unrestricted sprawl of large built-up areas – **Moderate**

P2: Preventing the merging of neighbouring towns - **Strong**

P3: Safeguarding the countryside from encroachment - **Moderate**

P4: Preserve the setting and special character of historic towns – **Weak / no contribution**

P5: Assist urban regeneration, by encouraging recycling of derelict and other urban land – **Strong**

The Assessment further divides the parcels into sub-parcels to reflect the boundaries of sites that were promoted for allocation in the Black Country Plan. Sub-parcel B81As1 extends to 47.75ha and incorporates the whole application site and land to the south (excluding the

majority of Q3 Academy). The Assessment uses the scenario “release of any land to the west of Wilderness Lane” for development to conclude that its release from the green belt would result in a “High” harm rating. In reaching this conclusion, the Assessment recognises the “narrow settlement gap” between Walsall and Birmingham, and how the release of the sub-parcel for development would “increase isolation of Green Belt land to the south east” at Sandwell Valley.

Planning policy disagrees with the approach taken by the planning applicant to consider the contributions to the purposes of the green belt made by the proposed area of built development in isolation from the remainder of the application site. “The fundamental aim of Green Belt policy is to prevent urban sprawl and by keeping land permanently open” (NPPF, paragraph 142). The LUC Assessment determines that the release of any land to the west of Wilderness Lane for development would result in high harm. Incremental development within the green belt would undermine both its openness and permanence, reduce the narrow undeveloped gap between Walsall and Birmingham and contribute to urban sprawl. The introduction of built development along the south-west side of the A34 Birmingham Road of up to 3 storeys would significantly alter the perception of openness and separation of Walsall and Birmingham by people travelling between the settlements.

As stated earlier, policy BCCS CSP2 is clear that Green Belt boundaries in the Black Country will be maintained and protected from inappropriate development to promote urban renaissance within the urban area. The Green Belt Assessment concludes that the parcel makes a **strong** contribution to purpose P5, which seeks to assist urban regeneration. The boundaries of Sandwell’s Green Belt have not been amended in 30 years and this permanence has coincided with significant regeneration within the urban area. The release of Green Belt land would undermine continued efforts to promote urban regeneration.

Landscape and archaeology

The applicant has submitted an LVA which concludes that the impacts of the development on the openness of the green belt would be very limited, and that the proposals would have limited harm in terms of landscape and visual impact.

For the landscape character element of the Green Belt Assessment, the application site is wholly within parcel BL25. The 78.7ha parcel includes the application site, as well as Q3 Academy, a stretch of the M6 to the west of junction 7 and Red House Park.

The Assessment concludes that the area has a moderate landscape sensitivity relating to residential development as it retains rural quality, including historic field patterns, ecological value due to the extent of priority habitats and an intact network of mature hedgerows. The proposals would harm the rural quality of the landscape and erode historic field patterns and the network of mature hedgerows through the introduction of vehicular routes shown on the Proposed Development Framework Plan. Paragraph 135(c) of the NPPF requires that planning decisions ensure that development is sympathetic to local character, including its landscape setting.

The Black Country authorities commissioned Oxford Archaeology to prepare a Historic Landscape Characterisation Study in October 2019 to inform the preparation of the Black Country Plan. The Study forms part of the evidence base for the emerging Sandwell Local Plan.

The Study concludes that the site is within an Area of High Historic Landscape Value (ref. AHHLV 25). It contains a well-preserved example of a pre-enclosure field system and there is evidence of ridge and furrow as cropmarks. The Study notes that there have been

prehistoric finds in the area, that there are a number of field boundaries link to the moated site to the south, and a number of hedgerows are recorded as ancient hedgerows.

The Study identifies the part of the site that contains the remains of a possible moated site as an Archaeological Priority Area (ref. APA 24). It suggests that unsympathetic development such as groundworks would detrimentally affect archaeological remains within the APA. The APA appears to be within the proposed Countryside Park on the submitted Development Framework Plan.

Policy ENV2 of the BCCS requires that development proposals preserve and enhance local character and those aspects of the historic environment together with their settings which are recognised as being of special archaeological or landscape quality. Policy ENV6 requires that development proposals should preserve and enhance archaeological heritage.

Housing Windfalls

Policy H2 of the SAD sets out the tests that proposals for housing development on windfall sites will be assessed against. The policy has two halves. The first half addresses sites not specifically allocated for residential use, the second half addresses proposals on unallocated greenfield land.

The application proposals conflict with the first half of the policy as the site is not previously developed land, and conflict has been identified with other development plan policies.

The second half of the policy states that residential development will only be permitted if it meets at least one of four tests. Consideration is given to each of the four tests below:

1. The site is not protected community space, however the site is within the Green Belt where the policy SAD EOS2 and the NPPF is clear that inappropriate development is harmful and should not be approved except in very special circumstances.
2. The site is in private ownership and is not Council-owned land that is surplus to requirements.
3. The site is within the Green Belt and therefore would not bring an under-used piece of land back into beneficial use.
4. The proposals are for a new residential development on Green Belt land on the edge of the West Midlands conurbation and would not constitute infill development.

The proposals do not meet the tests for windfall residential development set out in policy H2 of the SAD and therefore conflict with the policy.

Housing Land Supply

Sandwell's five-year housing land supply calculation is measured against the standard method (2014-based household projections). The most recent SHLAA was published in October 2023 and sets out the housing land supply at April 2022. The local housing need figure for the five-year period 2022-27 is 7,575 net homes and including a 20% buffer rises to 9,090 net homes. The SHLAA calculates that there is capacity for the delivery of 2,850 homes within the five-year period (without discounts).

Government published a revised NPPF in December 2023 which at paragraph 226 sets out the criteria against which local planning authorities need only demonstrate a four-year supply of housing land. Sandwell is considered to meet the criteria in that the emerging Sandwell Local Plan has reached Regulation 18 (TCPA Regulations 2012) stage and includes a policies map with proposed residential allocations.

The council does not dispute that it is unable to demonstrate either a five-year or a four-year supply of housing land and that capacity is below local housing need calculated using the standard method.

The council consulted on the Regulation 18 draft version of the Sandwell Local Plan in November-December 2023. The draft Local Plan explains that the borough has a local housing need of 29,773 homes over the period 2022-2041. Land has been identified for 11,167 new homes over this period resulting in a shortfall of 18,606.

The quantum of housing proposed for allocation has been subject to a rigorous process of evidence collection and review, and is informed by the current and previous SHLAAs, a Regulation 18 consultation on the (since abandoned) Black Country Plan and third party review on urban capacity by the West Midlands Combined Authority (undertaken by Chilmark Consulting).

It will be for a Planning Inspector appointed by the Secretary of State to determine whether the emerging Sandwell Local Plan is sound and that the council has provided a strategy which seeks to meet as much of the borough's objectively assessed needs as possible including for housing as required by paragraph 35(a) and paragraph 60 of the NPPF (2023).

The December 2023 version of NPPF at paragraph 145 confirms that "there is no requirement for Green Belt boundaries to be reviewed or changed when plans are being prepared or updated." The paragraph indicates that there is no requirement for Green Belt boundaries to be reviewed during the preparation of the emerging Sandwell Local Plan to meet the borough's housing need over the plan period. Furthermore, paragraph 60 now includes an additional clause which explains that as part of the Government's objective to significantly boosting the supply of homes "the overall aim should be to meet as much of an area's identified housing need as possible", acknowledging that a planning authority's objectively assessed need may not be capable of being met in full.

Notwithstanding the above, the quantum of proposed development represents 0.8% of the council's unmet need set out in the draft Local Plan, and 2.4% of the additional housing land capacity required to demonstrate a five-year land supply. The grant of planning permission would make little difference towards meeting targets for housing land supply whilst resulting in irreversible harm to the Green Belt and Peakhouse Farm SINC.

Housing Delivery

The council's most recent Housing Delivery Test Action Plan was published in 2022 in response to the results of the 2021 Housing Delivery Test.

Sandwell's Housing Delivery Test Measurement against the 2021 results was 52%. The result means that the Council was required to produce an Action Plan, it must add a 20% buffer onto the five-year housing land supply requirement and the presumption in favour of sustainable development applies as set out at paragraph 11(d) of the NPPF. These are the policy mechanisms that Government policy dictates local planning authorities should use to deliver more homes in circumstances where the housing market has failed to deliver the required amount. Paragraph 11(d) of the NPPF is clear that when the presumption in favour of sustainable development is engaged planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, including Green Belt land, provide a clear reason for refusing the development proposed.

The Action Plan includes a series of actions to accelerate housing growth in the borough, the majority of which are complete or in progress. Nowhere does the Action Plan state that the

council will consider the release Green Belt land to accelerate housing delivery. The council continues to accelerate housing delivery and regeneration beyond the commitments of the Action Plan, and is working to support the delivery of [£2.9 billion regeneration pipeline](#) in the borough.

Government published the results of the 2022 Housing Delivery Test in December 2023. Sandwell scored 47% meaning that the presumption still applies and that the Council must produce an Action Plan by summer 2024.

The proposals seek planning permission for the construction of 150 new homes. Notwithstanding the above, the delivery of the development would make only a small difference to the rate of housing delivery in the borough, and would not support the council to exceed the threshold above which it would no longer have to apply the presumption in favour of sustainable development or add a 20% buffer onto the five-year housing land supply calculation.

Environment

Policy ENV1 of the BCCS states that development will not be permitted where it would harm nature conservation sites, including regionally designated sites such as SINC. The Site Assessment Methodology for the draft Sandwell Local Plan states that designation as a SINC is a hard constraint for development.

The Local Sites Partnership endorsed the designation of Land at Peakhouse Farm as a SINC on 9 April 2019. The Partnership consists of membership from the four Black Country authorities, Birmingham City Council, Birmingham and the Black Country Wildlife Trust, EcoRecord, Geodiversity, Natural England, The Environment Agency and botanists. Sandwell Cabinet resolved to designate the site as a SINC on 7 August 2019, and the designation applies from this date forward. The Site Allocations and Delivery DPD Policies Map is updated periodically and republished on the council's website. The site is clearly designated a SINC on the public version of the Policies Map.

The decision to upgrade the designation was informed by the conclusions of a Local Site Assessment Report based upon two surveys undertaken in August 2018. Previous Local Site Surveys and Assessments have been undertaken at the site in 1988, 1998 and 1999. The landowner's planning agent, Turley, was issued with a copy of the Local Site Assessment Report that recommended the SINC designation by email on 30 April 2019, over three months prior to Cabinet resolution to formally designate the site.

The proposals would involve residential development on 3.91ha of land designated as a SINC, as well as the construction of roads and footpaths elsewhere on the designated land. The proposals would result in the loss of a range of habitats including:

- Hedgerow with trees
- Improved grassland
- Neutral grassland – semi-improved
- Tall herb

Policy ENV1 of the BCCS does not include a mechanism whereby harm to regionally designated nature conservation sites can be outweighed by strategic benefits or that compensation can be agreed to offset any impact.

Paragraphs 185 to 188 of the NPPF (2023) relate to habitats and biodiversity. Paragraph 186 (a) explains that when determining planning applications "if significant harm to biodiversity resulting from a development cannot be avoided" such as though locating on an

alternative site with less harmful impacts than planning permission should be refused. The draft Sandwell Local Plan identifies land for 11,167 dwellings across the plan period, of which land for 7,486 homes does not benefit from planning permission or prior approval. There are a significant number of alternative sites outside of the green belt with less harmful impacts on biodiversity that could accommodate the applicant's proposals. The paragraph places avoidance higher up the hierarchy than mitigation or compensation.

Residential development on part of the SINC is not necessary to enhance biodiversity elsewhere on the site. In fact the applicant has the immediate opportunity to benefit from the introduction of the national Biodiversity Net Gain requirement and register the whole site as a 'habitat bank' whereby developers elsewhere in the region can purchase 'biodiversity units' to offset the inability to secure Biodiversity Net Gain on their own developments. This mechanism would deliver long-term biodiversity enhancements to the site with minimal financial expenditure by the landowner.

Open Space

Policy BCCS ENV6 relates to open space. The policy encourages the creation of open space, including "providing opportunities to increase appropriate open space, sport and recreation use of the Green Belt". The policy explains that development proposals should preserve and enhance archaeological heritage.

The provision of new open space is welcomed. The Council published its latest Green Spaces Strategy Implementation and Business Plan 22/23 – 25/26 on 13/06/2023. The Strategy sets out the current provision of green spaces in the borough by town. The site is within the ward of Great Barr with Yew Tree in West Bromwich town. The Strategy at paragraph 3.4 explains that there are 457.39ha of unrestricted green space in West Bromwich. The town's population is recorded in the Strategy as 80,647 persons, indicating that there is a provision of approximately 5.67ha of unrestricted green space per 1,000 population in West Bromwich. The BCCS and SAD explain that Sandwell has an accessible open space target of 4.42ha per 1,000 population. The current provision in West Bromwich has met the policy target.

The creation of new open space is not intrinsically linked to the delivery of housing. No evidence has been presented that the new housing is enabling development and in fact the land is already informally accessed by members of the public for dog walking and recreation. The Proposed Illustrative Masterplan proposes only minimal interventions (a short section of cycle path parallel to the existing footpath on Wilderness Lane) and a few interpretation boards / bench and rest areas in order to create the Countryside Park. The construction of new housing would result in a permanent change whereas the ability to improve public access to the land can be secured at any time. The landowner could explore alternative means to provide new open space and increase biodiversity at the site such as using the site as a BNG habitat bank and applying for grant funding.

Summary

Planning policy **strongly objects** to the outline planning application proposals on the grounds that:

- it constitutes inappropriate development in the Green Belt and very special circumstances that outweigh harm to the Green Belt have not been demonstrated;
- the site is an inappropriate location for residential development as it would conflict with the spatial strategy within the development plan; and
- the proposals would harm the integrity of the Peakhouse Farm SINC.

Conflict has been identified with the following development plan policies:

- BCCS CSP2 – development outside the growth network
- BCCS CSP3 – environmental infrastructure
- BCCS HOU1 – delivering sustainable housing growth
- BCCS ENV1 – nature conservation
- SAD H2 – housing windfalls
- SAD EOS2 – Green Belt

Conflict has been identified with the following paragraphs of the NPPF which are a material consideration:

- Paragraph 135(c) of the NPPF – local character and landscape setting
- Paragraph 152 of the NPPF – inappropriate development in the Green Belt.
- Paragraph 180 of the NPPF – protection and enhancement of sites of biodiversity value

Paragraph 11(d) of the NPPF is clear that when the presumption in favour of sustainable development is engaged planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, including Green Belt land, provide a clear reason for refusing the development proposed. Planning policy considers that the proposals are for inappropriate development in the Green Belt and that the applicant has been unable to demonstrate very special circumstances for the reasons set out in the response above. Harm resulting from the proposals would not be outweighed by other considerations. Therefore paragraph 152 of the NPPF is clear that the planning application should be refused.