

Agenda Special Cabinet

Wednesday, 17 August 2022 at 3.30 pm
At Council Chamber, Sandwell Council House, Freeth Street, Oldbury,
B69 3DB

This agenda gives notice of items to be considered in private as required by Regulations 5 (4) and (5) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

1 **Apologies for Absence**

2 **Declarations of Interest**

Members to declare any interests in matters to be discussed at the meeting.

3 **Report of the Budget and Corporate Management Scrutiny Board - Brandhall 'Options'**

5 - 36

To consider a report of the Budget and Corporate Management Scrutiny Board in respect of the 'Call-in' of the Cabinet decision 'Brandhall – Options.'



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Distribution

Councillor Carmichael (Chair)
Councillors Ahmed, Hackett, Hartwell, Hughes, Millard, Padda, Piper and
Rollins

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Report of the Budget and Corporate Scrutiny Management Board

17 August 2022

Subject:	Report of the Budget and Corporate Scrutiny Management Board – Response to ‘Call-in’ in respect of ‘Brandhall – Options’
Cabinet Member:	Cabinet Member for Regeneration and Growth Councillor P Hughes
Director:	Director – Law and Governance and Monitoring Officer, Surjit Tour
Key Decision:	Yes
Contact Officer:	Senior Democratic Services Officer, Matt Powis Matt_powis@sandwell.gov.uk

1 Recommendations

- 1.1 That, the Cabinet considers its response in respect of the recommendations from the Budget and Corporate Scrutiny Management Board on 8 August 2022 and determine the following options:
- (a) Accept the recommendations as determined by the Scrutiny Board;
 - (b) Amend specific parts of the recommendations and approve a revised recommendation;
 - (c) Take no further action and implement the Cabinet decision as determined on 20 July 2022.

2 Reasons for Recommendations

- 2.1 To comply with Part 4 Section 14 (a) of the Council’s Constitution in respect of the Scrutiny Procedure Rules.



- 2.2 Upon receipt of the relevant Scrutiny Board’s ‘call-in’ recommendations, the Cabinet must consider whether to accept, amend or take no action in respect of the Scrutiny Board’s recommendations.
- 2.3 The decision of Cabinet will be final and implemented at the close of the meeting.

3 How does this deliver objectives of the Corporate Plan?

	<p>‘Call-in’ provides the mechanism for Elected Members to intervene with an Executive decision in exceptional circumstances.</p>
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4 Context and Key Issues

- 4.1 On Monday, 25 July 2022, the Council received a ‘call-in’ notification from Councillor Fenton, Chair of the Safer Neighbourhoods and Active Communities Scrutiny Board. Details of the ‘Call-in’ are referenced in appendix 1.

The Budget and Corporate Management Scrutiny Board met on 8 August 2022 and considered the ‘call-in’ notice as submitted by Councillor Fenton. A number of stakeholders were invited to attend including the relevant Cabinet Members and the Friends of Brandhall Greenspaces Action Group.

Following a lengthy debate, the Scrutiny Board voted unanimously and resolved to recommend the following to Cabinet:

The Budget and Corporate Management Scrutiny Board recognises a number of conflicting issues in relation to the Brandhall site, however, does not believe that these are insurmountable. The Board, has however, determined that the decision of Cabinet be referred back for reconsideration on the basis that the Board concluded the information utilised by Cabinet in reaching its decision may have been incomplete in that:



1. The Strategic Housing Land Availability Assessment (SHLAA) for the site was omitted from the report and Cabinet may wish to satisfy itself that the correct process and methodology was followed in relation to the comparable assessment of the site;
2. There is insufficient information contained in the report to confirm that alternative site options for the delivery of a new school have been fully explored, for example Cakemore playing fields does not appear to have been considered;
3. There is insufficient explanation given with regard to how the public consultation results, particularly with regard to residents' views, have been evaluated and weighted in reaching the decision.

In addition to the findings and recommendations of the Board, Cabinet are requested to note that a report on the financial analysis for the site will be considered at a future meeting of the Budget and Corporate Management Scrutiny Board.

5 Alternative Options

- 5.1 There are no alternative options in respect of this report.

6 Implications

Resources:	There are no specific resource implications associated with this report.
Legal and Governance:	The Scrutiny Board carried out it's legal duty to undertake overview and scrutiny as set out in Section 21 of the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007.
Risk:	There are no specific risks in respect of this report. The risks associated with the proposal are set out in the Cabinet report as presented on 20 July 2022.
Equality:	The equality implications with the proposals are set out in the Cabinet report as presented on 20 July 2022.
Health and Wellbeing:	The Health and Wellbeing implications are set out in the Cabinet report as presented on 20 July 2022.



Social Value	The Scrutiny Board have demonstrated robust decision-making and referred the matter in question for the Cabinet to consider.
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7. Appendices

1. 'Call-in' Cover report as presented at the Budget and Corporate Scrutiny Management Board.
2. Response to 'Call in' report as presented at the Scrutiny Board.

8. Background Papers

Not applicable.



Report to the Budget and Corporate Management Board

8 August 2022

Subject:	Call-in of the Cabinet decision 'Brandhall - Options'
Director:	Director of Law and Governance & Monitoring Officer Surjit Tour
Contact Officer:	Senior Democratic Services Officer, Matt Powis Matt_Powis@sandwell.gov.uk


1 Recommendations

- 1.1 That the Board consider the 'call-in' and consider whether to make any recommendations to the Cabinet.

2 Reasons for Recommendations

A Scrutiny Board having considered the 'call-in' decision, may refer the decision back to the Cabinet reconsideration.

3 How does this deliver objectives of the Corporate Plan?

	<p>'Call-in' provides the mechanism for Elected Members to intervene with an Executive decision in exceptional circumstances.</p>
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4 Context and Key Issues

- 4.1 In accordance with the provisions contained with Part 4 of the Council's Constitution (Scrutiny Procedure Rules), the Council received a 'call-in' notification from Councillor Fenton, Chair of the Safer Neighbourhoods and Active Communities Scrutiny Board on Monday, 25 July 2022.

The reason for the call-in is:

In line with the Council's Constitution as laid down in Part 4 – Scrutiny Procedure Rules, Section 14, the intention to call in was verbalised with brief reasons stated:

Due to the level of protest, a change UK petition that has over 2700 signatures and the vast number of questions this item has raised within the chamber and from the public, it is believed prudent to further examine the information and process used to formulate this decision to ensure the decision made fully encompasses both the financial impact on the council and the effects on the communities living and working in Old Warley, Langley and Bristnall Wards. This includes:

- *The financial implications in relation to building a new school, The report provides initial information about capital spend, however it does not address what financial obligations this will subject the Council to and for how long will the financial obligations continue to be held by the Council when the school is made an academy or alternatively if any outstanding financial obligations will be taken over by the academy.*
- *The requirement of places given the number of like for like schools in the area, Sandwell Trends information would appear to directly contradict the statement that Sandwell requires more school places and would suggest that less school places will be needed in the immediate future predicting that the 5-9 age range in Sandwell is decreasing not increasing.*
- *the condition of the school, including financial obligations while a new school is built. How long will the new building take, what immediate repairs within the report will need to be funded to ensure the safety of the pupils who currently use the building, how much funding has already been used to make repairs on the existing building, what historical reports exist in regards to the condition of the building*



- *the sites that were explored for the replacement school and the process that has been followed to determine it. Have parents been consulted about the site change, has a full investigation of the demographic location of current pupils been performed, has any consideration been given to the new catchment area and the existing catchment area of other schools, has any consideration been made to give other two form entry schools investment to become three form entry schools or has an in-depth analysis taken place to check if other schools could absorb new entry pupils without the need for Causeway Green to continue to be used.*
- *the impact of the existing highways infrastructure and the process that has been followed to determine that. The report makes no indication as to new infrastructure and its future definition of adopted or un-adapted, nor to whether current infrastructure is equipped to cope with the increased use.*
- *the site suitability and the assessments which were conducted, including reasoning for any assessments that may not have been completed. The report does not provide the Strategic Housing Land Availability Assessment, make mention of the Black Country Core Strategy ENV1 or acknowledge that the site is designated as a core habitat zone in the Black Country Plan.*
- *the impact on air quality and mental wellbeing. The report makes no mention of what public health reports exist in respects to the value of this site in regards to its contribution of the removal of particle matter and carbon absorption. What public health reports on the impact of green space on mental wellbeing exist that*
- *the potential loss of open green space that is reported to be home to wildlife, and historic ruins and artefacts, that may have the potential to bring Sandwell's nature reserves in line with the national standard. Sandwell's Green Strategy identifies that Sandwell is considerable behind the national standard for nature reserve space. The space allegedly has in excess of 61 species using it, many species of flora and fungi. It also is alleged to contain the ruins of St Katherine's Chapel for 1444, a Carboniferous formation that is over three million years old locally known as pudding rock and it is alleged that the area could be classified as an Ancient Woodland as it has been wooded since 1600AD.*



A copy of the received call-in notification, Cabinet decision and the Cabinet report are appended to this report.

The Board should consider the 'call-in' documentation and consider whether to make any recommendations to the Cabinet.

5. Appendices

- A. 'Call-in' notice provided by Councillor Fenton.
- B. Extract of the Cabinet Decision as published on the Council's Modern.gov page.
- C. Cabinet report and appendices as presented at Cabinet.
- D. Cabinet Member Statement as presented at Cabinet.
- E. Response to 'Call in' report.

6. Background Papers

Not applicable.



Report to Budget Scrutiny Board

8 August 2022

Subject:	Brandhall Options – Response to Call In
Director:	Tony McGovern Director Regeneration and Growth
Contact Officer:	Tammy Stokes Service Manager Spatial Planning and Growth Sue Moore Group Head for Education Support Services

1 Recommendations

1.1 That Budget Scrutiny Board considers the contents of this report.

2 Reasons for Recommendations

2.1 Councillor Fenton, Chair of the Safer Neighbourhoods and Active Communities Scrutiny Board invoked ‘call-in’ procedure as set out in the Council’s Constitution in respect of the decision made by Cabinet at their meeting on 20th July 2022. The justification for this being the ‘level of protest and the vast number of questions this item has raised’. The specific issues to be considered being;

- a. The report provides initial information about capital spend, however it does not address what financial obligations this will subject the council to and for how long will the financial obligations continue to be held by the council when the school is made an academy or alternatively if any outstanding financial obligations will be taken over by the academy. The requirement of places given the number of like for like schools in the area.




- b. The requirement of places given the number of like for like schools in the area. Sandwell Trends information would appear to directly contradict the statement that Sandwell requires more school places and would suggest that less school places will be needed in the immediate future predicting that the 5-9 age range in Sandwell is decreasing not increasing. The sites that were explored for the replacement school and the process that has been followed to determine it.
- c. The condition of the school, including financial obligations while a new school is built. How long will the new building take, what immediate repairs within the report will need to be funded to ensure the safety of the pupils who currently use the building, how much funding has already been used to make repairs on the existing building, what historical reports exist in regard to the condition of the building.
- d. The sites that were explored for the replacement school and the process that has been followed to determine it. Have parents been consulted about the site change, has a full investigation of the demographic location of current pupils been performed, has any consideration been given to the new catchment area and the existing catchment area of other schools, has any consideration been made to give other two form entry schools investment to become three form entry schools or has an in-depth analysis taken place to check if other schools could absorb new entry pupils without the need for Causeway Green to continue to be used.
- e. The impact of the existing highways infrastructure and the process that has been followed to determine that. The report makes no indication as to new infrastructure and its future definition of adopted or un-adopted, nor to whether current infrastructure is equipped to cope with the increased use.








- f. The site suitability and the assessments which were conducted, including reasoning for any assessments that may not have been completed. The report does not provide the Strategic Housing Land Availability Assessment, make mention of the Black Country Core Strategy ENV1 or acknowledge that the site is designated as a core habitat zone in the Black Country Plan.
- g. The impact on air quality and mental well-being. The report makes no mention of what public health reports exist in respects to the value of this site in regard to its contribution of the removal of particle matter and carbon absorption. What public health reports on the impact of green space on mental wellbeing exist.
- h. The potential loss of open green space that is reported to be home to wildlife, and historic ruins and artefacts, that may have the potential to bring Sandwell's nature reserves in line with the national standard. Sandwell's Green Strategy identifies that Sandwell is considerably behind the national standard for nature reserve space. The space allegedly has in excess of 61 species using it, many species of flora and fungi. It also is alleged to contain the ruins of St Katherine's Chapel for 1444, a Carboniferous formation that is over three million years old locally known as pudding rock and it is alleged that the area could be classified as an Ancient Woodland as it has been wooded since 1600AD.

2.2 This report sets out responses to the above for consideration by the Budget Scrutiny Board.

3 How does this deliver objectives of the Corporate Plan?

	<p>Best start in life for children and young people</p> <p>The provision of a replacement school will ensure children are educated in up to date modern educational facilities.</p>
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	<p>People live well and age well</p> <p>A more accessible green space will provide additional opportunities for physical activity and enjoyment of the green-space.</p>
	<p>Strong resilient communities</p> <p>Objective B9 within the Corporate Plan (2021 – 2025) is: We will provide enough good school places that offer families choice and confidence that their children can experience high quality education and achieve good outcomes.</p>
	<p>Quality homes in thriving neighbourhoods</p> <p>Objective H1 within the Corporate Plan (2021-2025) is: We will deliver much needed new homes across the borough, especially affordable homes, on our own land and other viable sites in order to help meet the demand for affordable housing in our communities</p>
	<p>A strong and inclusive economy</p>
	<p>A connected and accessible Sandwell</p>

4 Context and Key Issues

- 4.1 Significant information has been provided in the Cabinet Report and via the associated technical appendices. That report and technical appendices has been re-provided as part of the Scrutiny Board report pack.
- 4.2 This report will address each item within the Call-In request.
- 4.3 **Item A: The financial implications in relation to building a new school, The report provides initial information about capital spend, however it does not address what financial obligations this will**



subject the council to and for how long will the financial obligations continue to be held by the council when the school is made an academy or alternatively if any outstanding financial obligations will be taken over by the academy.

- 4.4 Causeway Green Primary School is a community-maintained school. The council is financially responsible for the replacement of maintained school buildings. The Cabinet report confirms a capital budget of £10m, the currently estimated cost for the building of a replacement school facility. A project contingency is also included. The follow up report concerning procurement of works to construct the school will detail the financial obligations, however with the allocation of £5m School Condition grant funding already allocated to the Authority by the Department for Education (DfE), and the further £2.5m 80% Main Fund CIL funding, this currently leaves a funding gap of £2.5m. A further School Condition allocation has been received from the DfE that may be sufficient to close the funding gap, however further financial analysis needs to be undertaken to assess the viability of using this additional grant funding or whether an alternative funding stream would need to be pursued. The follow up report to Cabinet will present a full project funding profile as to how the school replacement build project would be funded.
- 4.5 There are currently no long term financial obligations to the Council as the scheme would not be progressed until all grant / alternative funding had been identified. The School Condition grant funding is allocated by the DfE with the express aim of supporting such a rebuild project, and once expended doesn't present any financial obligations to the council.
- 4.6 The Education Directorate is not currently aware of any indications that the school will convert to an Academy. There would be no financial obligations to the council once the project is completed. No financial obligations would be taken over by the school (and / or a new Academy Trust) if it were to convert to an Academy. Whilst the school remains a maintained school the ongoing financial liability to the council is the ongoing repair and maintenance of the new facility. Through the



financial scheme of de-delegation to schools the Governing Body are responsible for the upkeep of the school.

- 4.7 **Item B: The requirement of places given the number of like for like schools in the area, Sandwell Trends information would appear to directly contradict the statement that Sandwell requires more school places and would suggest that less school places will be needed in the immediate future predicting that the 5-9 age range in Sandwell is decreasing not increasing.**
- 4.8 In line with DfE guidance, the council is working towards maintaining a 5-10% surplus of places across all primary schools to ensure that we have capacity to meet demand throughout the academic year from movement within Sandwell and inward migration. The percentage will fluctuate during each year based on the popularity of schools, but the Council will look to continue to maintain a 5-10 % surplus across primary schools. Due to the unprecedented birth rate growth over the past 12 years it has been difficult to maintain a healthy surplus whilst responding to significant demands for primary school places.
- 4.9 All school place planning projections are updated on an annual basis to ensure the Council continues to meet demand for places. The methodology which we use has a 99.8% accuracy rate which is carefully scrutinised by the DfE.
- 4.10 The replacement of the school is required to ensure we maintain the current capacity in the area and the school continues to serve its local community.
- 4.11 **Item C: the condition of the school, including financial obligations while a new school is built. How long will the new building take, what immediate repairs within the report will need to be funded to ensure the safety of the pupils who currently use the building, how much funding has already been used to make repairs on the existing building, what historical reports exist in regard to the condition of the building**



- 4.12 The condition of the school is maintained through the school’s buy-back arrangements with the council’s Property Maintenance Account, and the school will continue to receive financial support through the de-delegation arrangements to ensure the repair and maintenance package can be retained until a new school is built. The school and the Council will continue to maintain the existing building for the pupils and staff ensuring that all cyclical maintenance is completed. And whilst no significant refurbishment or replacement works will now be undertaken the Council and the School will monitor the building and site and address any health and safety issues as a matter of urgency until the new school opens. The survey information presented to Cabinet could not include intrusive investigations as such would require quite detailed and controlled sampling (i.e. asbestos monitoring), however from experience of those similar buildings referenced (Yew Tree Primary and Abbey Infant Schools) it is clear that ‘Hills’ type construction buildings are inherent with problems associated with structural integrity as the system build degrades.
- 4.13 Allowing for the follow up report to Cabinet, design and procurement prior to construction, it is expected that the replacement school would at the earliest open in September 2024.
- 4.14 There are no immediate issues for repair. Alongside the school and the Property Maintenance Account addressing any cyclical maintenance concerns, it is a case of maintaining a watching brief. E.g., since production of the photographic survey presented to Cabinet reactive and planned works to the school’s playground surface have been organised to address the degrading finish that may have caused a health and safety issue during the winter months.
- 4.15 A financial breakdown of spend for repairs and maintenance through the School Repair Account (Property Maintenance Account) for the past 5 years is:

Year	2017/18	2018/19	2019/2020	2020/21	2021/22
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Spend through SRA (£)	£46,751	£41,827	£47.454	£63,869	£63,020
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- 4.16 In addition, the school will have continued to maintain the internal areas through its de-delegated budget received from the Local Authority.
- 4.17 The Council's carried out a condition survey of the site and buildings in May 2022.
- 4.18 **Item D: The sites that were explored for the replacement school and the process that has been followed to determine it. Have parents been consulted about the site change, has a full investigation of the demographic location of current pupils been performed, has any consideration been given to the new catchment area and the existing catchment area of other schools, has any consideration been made to give other two form entry schools investment to become three form entry schools or has an in-depth analysis taken place to check if other schools could absorb new entry pupils without the need for Causeway Green to continue to be used.**
- 4.19 When looking for alternative sites the two key factors for relocating a school is to ensure 1) the school can be located but still serve its local community, and 2 ensure the size of site is large enough to provide for the school's needs and is in line with DfE guidance. In addition, the Council is statutorily required to provide sufficient playing field area for children aged 8 years and above, and Sport England as a consultee for a planning application have due regard to ensuring the Authority meets its minimum statutory requirements for Sport and P.E.
- 4.20 As to site availability, a site on Ashes Road was considered but quickly discounted as it was not large enough to accommodate a 2-form entry primary school for 420 pupils.



- 4.21 A site on Grafton Road was considered but again it was deemed too small (0.5 Hectares) to accommodate a 2-form entry primary school.
- 4.22 A rebuild of the school on the existing site has been considered, however there are a number of site constraints that will adversely impact on time, cost, and final design solution i.e.
- the existing school playing field is located at a higher plain than the school buildings and playground areas, which has previously lead to significant flooding experienced by the school as result of surface run-off from the higher point of the site;
 - the site has very restrictive access / egress. Any new development would require separate designated vehicular and pedestrian routes into the site. The main access point to the site is off Penncricket Lane, a very busy, traffic congested road, with the main school access point close to a bend in the road:
 - any phased rebuild of the school on the site would cost the council significantly more to deliver, and, take twice the time for construction and demolition of existing structures following full decant by the school.
- 4.23 Officers have continued to try to identify an alternative site in Council ownership but none have been identified.
- 4.24 Parents have been consulted as part of the wider consultation exercises that have taken place regarding the future of Brandhall and are supportive of a replacement school. No formal consultation on a proposed relocation of the school could be undertaken until a final decision is taken by the Council to relocate the school.
- 4.25 No Sandwell primary school has a catchment area. Sandwell's Co-ordinated Admissions Policy enables all parents / carers to apply for any school, in or outside of Sandwell. Causeway Green Primary School has remained a popular and good school, and with the numbers on roll, i.e., a total of 420 plus Nursery, pupils could not be accommodated at alternative schools if the school were closed.



4.26 **Issue E: The impact of the existing highways infrastructure and the process that has been followed to determine that. The report makes no indication as to new infrastructure and its future definition of adopted or un-adopted, nor to whether current infrastructure is equipped to cope with the increased use.**

4.27 The Brandhall Transport Summary Technical Note provides a summary of the highways technical studies undertaken to date. This was provided as Appendix E to the Cabinet Report. The Technical Note sets out a summary of the transport baseline in relation to the site and specifically comments on the following;

- Site access and junction preferences review
- Accessibility of the site (Draft Transport Assessment)
- The masterplan options (excluding options 1a and 1b)
- Trip Generation
- Parking proposals and standards based on pre-application discussions with Sandwell Highways Officer.
- Proposed vehicular trip generation and distribution per masterplan option based on pre-application discussions with a Sandwell Highways Officer; and
- Further work to be undertaken

4.28 The Transport Summary Technical Note summarises existing transport conditions as follows:

- A comprehensive network of footways currently exists in the vicinity of the site;
- Existing cycle infrastructure in the vicinity of the site includes off-road routes, including the NCN Route 5 and NCN Route 81 along the Birmingham Old Canal Line Towpath;
- A range of local amenities are available within the local area surrounding the site including good access to education, local retail, leisure and community facilities; and
- The site is accessible by regular and frequent existing public transport services including bus and rail, and therefore ideally located for development.



- 4.29 Trip generation for option 3 (a new public park, 190 new homes, and replacement school) are included in the Transport Summary Technical Note. Option 3 is estimated to generate 350 AM two-way trips, with 120 two-way trips generated in the PM peak hour. However, the assumptions made around trip generation would need to be discussed and agreed with the local highways authority as part of the further works required.
- 4.30 A detailed analysis on the impact on existing highways infrastructure and the potential mitigation required will be carried out as part of the Transport Assessment (TA) and Travel Plan (TP) and assessed as part of any planning application. To complete a TA, the scheme must be designed in some detail, to allow a full assessment of parking provision, any new highways and accesses, and how they will link in to the wider network and impact on capacity. As options only have been put to Cabinet the options are not designed to the detail required for a full TA. Therefore, the technical note was produced to highlight any major highway related technical issues.
- 4.31 The Transport Summary Technical Note was reviewed by officers within the Council's Highways Authority and at this stage officers are of the view that the resultant trip generation from option 3 would not have a significant negative impact on the capacity of the existing highway. However, they would need to review the full TA and TP as part of any planning application once the scheme is designed in more detail.
- 4.32 In terms of future investment in to the highway network, the site lies adjacent to the A4123 which forms part of the West Midlands Key Route Network (KRN). The KRN forms the basis for investment in road-based transport infrastructure as set out in the West Midlands Local Transport Plan (Movement for Growth). Overall, Movement for Growth sets out the framework to improve this corridor and provides the strategic justification for funding bids.
- 4.33 Around £30m of funding is already in place to improve Birchley Island, where the A4123 intersects with the A4034 and the M5 at Junction 2.



Added to this, there is £29m of funding from the City Region Sustainable Transport Settlement (CRSTS) specifically aimed at improving the A4123 corridor. This funding will be used to provide what will become a continuous segregated off-carriageway cycle route from Wolverhampton to Hagley Road along with new pedestrian facilities, bus priority measures and junction improvements in key locations. The route features in the West Midlands Bus Service Improvement Plan (BSIP) which will target funding at improving bus travel covering infrastructure, vehicles and ticketing.

4.34 The overall package of transport improvements in the corridor are designed to accommodate demand from both existing land uses and future developments in the corridor.

4.35 **Issue F: The site suitability and the assessments which were conducted, including reasoning for any assessments that may not have been completed. The report does not provide the Strategic Housing Land Availability Assessment, make mention of the Black Country Core Strategy ENV1 or acknowledge that the site is designated as a core habitat zone in the Black Country Plan.**

4.36 The following assessments were undertaken to inform the preparation of the options for Brandhall.

- Transport Summary Technical Note (Cabinet Report para 4.44 to 4.48 refers)
- Preliminary Ecological Appraisal Report (Cabinet Report para 4.49 to 4.63 refers)
- Bat Survey Report (Cabinet Report para 4.52 refers)
- Archaeological Desk Based Assessment (Cabinet Report para 4.64 to 4.70 refers)
- Site-Specific Air Quality Monitoring Report (Cabinet Report para 4.71 to 4.75 refers)
- Topographical Survey (Cabinet Report para 4.76 and 4.77 refers)
- Utilities Survey (Cabinet Report para 4.78 to 4.81 refers)



- Surface Water Drainage Technical Note and Stage 1 Flood Investigation Report (Cabinet Report para 4.82 to 4.86 refers)
- Preliminary Noise Modelling (Cabinet Report 4.87 to 4.94 refers)
- Pre-desk study of Ground Conditions (Cabinet Report 4.95 to 4.99 refers)

4.37 Further technical reports will be required prior to the submission of any planning application. However, these reports, such as the Transport Assessment and Travel Plan referred to above, require the preferred option to be designed in more detail before they can be completed. The level of information that needs to be submitted varies depending on the type of application being made (full/ hybrid/ outline application). Requirements are set out via the Council Planning Validation Checklist. Any application which does not meet the requirements in the Checklist are not validated, this ensure that the applicant submits all statutory and local requirements in terms of technical information.

4.38 In terms of site suitability for a public park, a replacement school and 190 homes – this is ultimately a decision for Planning Committee. However, none of the technical reports completed to date identified any significant constraint to the delivery of option 3. As noted above further reports are required and the outcomes of these reports will need to be fully considered and any required mitigation designed in to the proposals.

4.39 From a planning policy perspective, The Black Country Core Strategy (BCCS) (2011) and the Sandwell Site Allocations and Delivery Development Plan Document (SADDPD) (2012) are relevant adopted policy documents.

4.40 The Brandhall site is unallocated in the SADDPD. This means that the site is currently not allocated for any particular use, such as housing, employment, or public open space (except for Parsons Park which is allocated public open space. Parsons Park is retained as public open space across all options put to Cabinet). Unallocated land is sometimes referred to as ‘white land’ – meaning it is not shown as allocated in the



plan for any specific land-use; however, this is a colloquial term and simply reflects its lack of a specific land use designation.

- 4.41 The SADDPD does designate a small part of the site in the north east corner as a Site of Local Importance for Local Nature Conservation. The location of this SLINC was included in the Cabinet Report at Appendix L. No development is proposed on the existing SLINC area.
- 4.42 In addition to the SADDPD, the adopted Black Country Core Strategy designates areas of the Black Country as Wildlife Corridors. The Brandhall site is part of the River Tame Wildlife Corridor and consists of semi-natural habitats alongside the M5 motorway that facilitate wildlife movement north and south (Cabinet Report paragraph 4.55 refers). Policy ENV1 of the BCCS states that “*Development within the Black Country will safeguard nature conservation, inside and outside of its boundaries by ensuring that the movement of wildlife within the Black Country and its adjoining areas, through both linear habitats (e.g. wildlife corridors) and the wider urban matrix (stepping stone sites) are not impeded by development.*” The design of option 3 specifically takes in to account the need to maintain the wildlife corridors north-south connections and proposes to maintain a significant wildlife corridor alongside the M5.
- 4.43 BCCS Policy ENV1 sets out clear guidance on how such sites should be dealt with through the planning process. Policy ENV1 is referred to in paragraph 4.177 of the Cabinet Report and this paragraph is copied below.

Development within the Black Country will safeguard nature conservation, inside and outside its boundaries by ensuring that:

- *Development is not permitted where it would harm internationally (Special Areas of Conservation), nationally (Sites of Special Scientific Interest and National Nature Reserves) or regionally (Local Nature Reserve and Sites of Importance for Nature Conservation) designated nature conservation sites;*
- **Locally designated nature conservation sites (Sites of Local Importance for Nature Conservation), important habitats and**



geological features **are protected from development proposals which could negatively impact upon them;**

- The movement of wildlife within the Black Country and its adjoining areas, through both linear habitats (e.g. wildlife corridors) and the wider urban matrix (e.g. stepping stone sites) is not impeded by development;
- Species which are legally protected, in decline, are rare within the Black Country or which are covered by national, regional or local Biodiversity Action Plans will not be harmed by development.

Adequate information must be submitted with planning applications for proposals which may affect any designated site or any important habitat, species or geological feature to ensure that the likely impacts of the proposal can be fully assessed. Without this there will be a presumption against granting permission. **Where, exceptionally, the strategic benefits of a development clearly outweigh the importance of a local nature conservation site, species, habitat or geological feature, damage must be minimised. Any remaining impacts, including any reduction in area, must be fully mitigated. Compensation will only be accepted in exceptional circumstances. A mitigation strategy must accompany relevant planning applications.**

Current designated nature conservation sites including Local Nature Reserves will be carried forward from existing Proposals Maps, subject to additions and changes arising from further studies. Local Authorities will look to designate additional nature conservation sites as necessary in conjunction with the Local Sites Partnership and consequently sites may receive new, or increased, protection over the Plan period.

All appropriate development should positively contribute to the natural environment of the Black Country by:

- Extending nature conservation sites;
- Improving wildlife movement; and/or
- Restoring or creating habitats / geological features which actively contribute to the implementation of Biodiversity Action Plans (BAPs) and/or Geodiversity Action Plans (GAPs) at a national, regional or local level. Details of how improvements (which are appropriate to the location and scale) will contribute to the natural environment, and their ongoing management for the benefit of biodiversity and geodiversity will be expected to accompany planning applications. Local authorities



will provide additional guidance on this in Local Development Documents. [writer's emphasis].

- 4.44 The implication of the highlighted wording is that it demonstrates that development that affects SLINC's can be permitted in some situations where sufficient mitigation can be provided, and/ or the strategic benefits of the proposed development is such that it outweighs local environmental value. There will be a requirement through the planning process to demonstrate additional mitigation.
- 4.45 The Council are currently reviewing the BCCS, the review document is called the Black Country Plan (BCP). The draft BCP contains a new (currently un-adopted) policy (ENV3) that sets out the Black Country approach to the concept of a Nature Recovery Network (NRN), which is required under new environmental legislation to identify areas of habitat and biodiversity importance and make it easy for local authorities to make provision for their restoration and enhancement, and where possible for the creation of additional elements of green and blue infrastructure that will widen and expand the network itself.
- 4.46 Areas are identified in the plan as falling within certain zones depending on their potential for restoration, enhancement etc. Policy ENV3 refers to an appendix to the BCP that contains a draft NRN strategy provided by the Wildlife Trust following their commissioning to undertake work on the Nature Recovery Network. The NRN strategy was produced in draft form by the local Wildlife Trust in April 2021 and indicates Brandhall as a Core Habitat Zone where there should be priority for protection and restoration. The NRN sets out a hierarchy for protection and restoration but of itself does not carry any specific power to require sites be retained or not developed (similar to SLINC status). Policy ENV3 is subject to further consultation and may be subject to further changes and refinement. It is intended to work with the Birmingham and Black Country Wildlife Trust to ensure the option 3 scheme incorporates improvements to the remaining wildlife areas to improve biodiversity wherever possible.
- 4.47 It should be noted that the Black Country Plan itself is not adopted nor do the policies it contains carry any weight in the planning process at this



draft stage – it is very much subject to change and cannot be used to determine any planning proposals at this stage.

- 4.48 The Draft Black Country Plan proposes to allocate the Brandhall Site for residential development. This allocation is draft and is still subject to further consultation and amendment.
- 4.49 All sites that met the Sandwell Strategic Housing Land Availability Assessment (SHLAA) criteria were included in the draft Black Country Plan.
- 4.50 The National Planning Policy Framework defines the SHLAA as “a technical exercise to determine the quantity and suitability of land potentially available for housing development. It is not a site allocations exercise – the purpose is to provide a robust indication of aggregate housing capacity at local authority level.”
- 4.51 To be included in the SHLAA a site must be assessed against three criteria: suitability, deliverability and availability. The site had already been declared surplus by the council so met the availability test and as a previously undeveloped site with no significant unforeseen viability issues it is considered deliverable. To be considered suitable a site is assessed against relevant planning constraints and their ability to be mitigated against. But this a broad assessment, not the detailed assessment required as part of a planning application process.
- 4.52 In carrying out the broad assessment of a site for the purposes of a SHLAA, SLINCs and wildlife corridors are considered to have the potential to be mitigated and as such are not considered sufficient to deem the site unsuitable in broad terms. It is for the planning application process to consider if the such mitigation can actually be achieved.
- 4.53 The site was therefore included in the most recent iteration of the SHLAA having been assessed as described. As the SHLAA process considers the site to be suitable, deliverable and available, the site was included in the Draft Black Country Plan as a Housing allocation. The SHLAA



extract for the Brandhall site is included for you information at appendix A of this report.

- 4.54 The strategic housing needs of the Borough are set out in the Cabinet report at paragraphs 4.23 to 4.29.
- 4.55 **Issue G: the impact on air quality and mental well-being. The report makes no mention of what public health reports exist in respects to the value of this site in regards to its contribution of the removal of particle matter and carbon absorption. What public health reports on the impact of green space on mental wellbeing exist.**
- 4.56 Calculations in relation to the contribution that the vegetation on the site currently makes in relation to the removal of particulate matter and carbon dioxide absorption have not been completed.
- 4.57 An estimate of such contributions could be made using data prepared by the Office for National Statistics in their report on [Woodland natural capital accounts](#) (updated May 2021). Whilst the figures are based on the ability of woodland to make such contributions, and the Brandhall Golf Course site is currently a mixture of both woodland and other open space, the total area of land covered by woodland could be calculated and therefore the contributions estimated.
- 4.58 On the basis that the total amount of woodland area in England is 1,308,000 hectares and the total carbon sequestration (removal or absorption) is 8,400,000 tonnes per year, then the average per hectare per year is 6.4 tonnes. In terms of pollution removal (particulate matter) the total is 111,800 tonnes per year, an average per hectare per year of 0.085 tonnes.
- 4.59 If the whole of the 37-hectare Brandhall site was defined as woodland, then carbon sequestration could be 236.8 tonnes per year and pollution removal could be 3.15 tonnes per year, although in reality the figures will be significantly lower because of the amount of land that can be defined as woodland.



- 4.60 Air quality monitoring has been undertaken at the site and details set out in the Cabinet Report at paragraphs 4.71 to 4.75. A detailed air quality assessment will be conducted based on the preferred development option.
- 4.61 In terms of mental health, Sandwell Council has not commissioned any specific reports on the impact of green-space on mental health.
- 4.62 However, various studies exist that show access to greenspace is linked to better mental health. In 2020 Public Health England released their report “Improving access to greenspace” which promotes improving access to greenspace in order to reduce health inequalities.
- 4.63 Option 3 will provide a public park – improving access to greenspace beyond that available at present given the site has restricted access to the public rights of way that cross the site only, is not public open space, nor is maintained as such.
- 4.64 Providing a public park will improve access to the open space and provide more opportunities for all residents to use the space for informal recreation and leisure activities (through better access points and pathways). Option 3 proposes to retain just under 70% of the site as a public park. The park would be around 26 hectares in size, with 2.68 hectares of the site being set aside for the replacement school, and 5.09 hectares or around 14% of the site being set aside for the development of circa 190 new homes.
- 4.65 **Issue H: the potential loss of open green space that is reported to be home to wildlife, and historic ruins and artefacts, that may have the potential to bring Sandwell's nature reserves in line with the national standard. Sandwell’s Green Strategy identifies that Sandwell is considerable behind the national standard for nature reserve space. The space allegedly has in excess of 61 species using it, many species of flora and fungi. It also is alleged to contain the ruins of St Katherine’s Chapel for 1444, a Carboniferous formation that is over three million years old locally known as**



pudding rock and it is alleged that the area could be classified as an Ancient Woodland as it has been wooded since 1600AD.

- 4.66 A Preliminary Ecological Appraisal Report (PEAR), Bat Survey Report and Heritage Desk Based Assessment have been prepared and the findings of these studies are contained within the previously provided reports. The report from the Birmingham and Black Country Wildlife Trust was also provided as an appendix to the Cabinet Report.
- 4.67 The PEAR and Bat Survey Report has been taken into consideration in developing the options for the site. Option 3 seeks to retain just under 70% of the site as open space and the PEAR sets out mitigation measures that could be undertaken to improve the remainder of the site in terms of habitat biodiversity. A further ecological report will be required as part of any planning application and appropriate mitigation measures will have to be clearly set out to minimise the impact on ecology.
- 4.68 Determining if a site is ancient woodland is typically confirmed via a review of historic maps or via ecology surveys of indicator species associated with undisturbed woodland habitats.
- 4.69 Appendix B is an historical (1945) aerial map taken from Google Earth, from this map it can be seen that the site does not appear to incorporate a great number of trees (with the possible exception of around the rock outcrop area which is to be retained as part of option 3) – based on this evidence, the site has not been continuously wooded since 1600 and therefore is unlikely to be classified as an Ancient Woodland.
- 4.70 The Heritage Desk Based Assessment identifies three assets located within the Site boundary, comprising ridge and furrow across the Site (MBL3192), as well as the former Brand Hall (MBL2704) and possible chapel site (MBL2996) both of which are thought to be located on the south eastern boundary of the site. The locations are included in the Heritage Desk Based Assessment.
- 4.71 The Heritage Desk Based Assessment also identifies further assessment of potential impacts upon the archaeological resource within the Site including a geophysical (magnetometer) survey followed by trial trenching in order to understand the archaeological potential of the Site and to particularly identify the presence of remains associated with Brand Hall and the former chapel in the south-eastern corner of the Site.



Given the Brandhall Site is part of a much wider Area of Potential Archaeological Importance such surveys would be a planning requirement.

4.72 There is a geological outcrop of a calcareous conglomerate in a former gravel pit in the north-east corner of the site (it is believed this area is locally known as Pudding Rock). The existing Site of Local Interest for Nature Conservation designation covers this area and none of the development options propose development in that area. The location of this SLINC was included in the Cabinet Report at Appendix L.

5 Implications

<p>Resources:</p>	<p>Option 1b, 2, 3, and 4 requires additional revenue for park maintenance and capital funding to deliver the option (based on the high-level viability work carried out to date). The source of this funding has not been identified and further work is required to determine potential funding sources in line with recommendation 1.2 of the July 2022 Cabinet Report.</p> <p>It is proposed to use £2.5m of 80% Main Fund CIL funding to support the delivery of the school in option 2, 3 and 4 in line with recommendation 1.5 of the July 2022 Cabinet Report.</p> <p>In August 2020, £380,000 revenue funding was allocated via the (internal) Land Regeneration Fund (£250,000) and the Housing Revenue Account (£130,000) to enable the delivery of a masterplan for the Brandhall site and submit a planning application.</p> <p>Resources are not in place to manage the delivery of the option 3 and 4 and therefore additional capacity will be required in line with recommendation 1.8 of the July 2022 Cabinet Report. It is recommended that additional capacity is funded from reserves already identified within Regeneration and Growth to support capital projects.</p>
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<p>Legal and Governance:</p>	<p>The Site is owned by Sandwell Council, and registered with the Land Registry under title number WM954576.</p> <p>A title investigation has been undertaken, including a review of the Council’s pre-registration deeds and documents, and part of the Site is affected by a Deed of Dedication, dated 15 July 1997 made between the Council (1) National Urban Forestry Unit (2) and The Millennium Commission (3) under which the Council covenants not for a period of 99 years to part with possession of the property affected by that Deed, without the consent of NUFU and the Commission, nor without such consent change the use of the land. The Deed of Dedication only affects part of the site, and includes a provision allowing the Council to dispose of the Site (after 25 years), provided replacement areas are dedicated by the Council. NUFU (or its successor body) and the Millennium Commission will therefore be consulted to confirm the replacement areas proposed by the Council are agreed.</p> <p>The Site was previously subject to a lease to Sandwell Leisure Trust, pursuant to the overarching agreement between the Council and SLT. On 5 August 2021, a Deed of Variation was agreed with SLT, removing the Site from the agreement with SLT, and terminating the lease. The lease to SLT had not been registered with the Land Registry.</p> <p>The Clubhouse, situated on part of the Site, was previously subject to a lease to the Brandhall Golf Club, however, the lease has expired, and property has been vacated by the Golf Club. Any rights</p>
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	<p>pursuant to that lease have now expired, and the Council has exclusive possession of the Clubhouse.</p> <p>Any change of use, or disposal of public open space is subject to certain legal restrictions, and will be followed, as necessary, at the relevant time.</p>
Risk:	<p>Should option 2, 3, or 4 be preferred a planning decision will be required. This decision will sit with the council's planning committee. There is a risk that should planning permission be granted the application could be called in by the Secretary of State for determination.</p> <p>The financial information contained in the report are estimates and therefore could be subject to change.</p> <p>Further investigations are required (such as the Fungi report and an update to the PEAR) which could identify constraints not currently identified.</p> <p>Judicial Review of any decision of Cabinet could be pursued if the grounds for Judicial Review are met.</p>
Equality:	<p>The Brandhall site (other than Parsons Park) currently has restricted access, and other than two public rights of way, is not publicly accessible. The creation of a public park would ensure the open space is physically accessible for people with disabilities.</p> <p>The creation of a new replacement school provides the opportunity to improve the learning environment for children. The new site and building for a replacement primary school would be fully compliant and accessible to all users.</p>
Health and Wellbeing:	<p>The Brandhall site (other than Parsons Park) currently has restricted access, and other than two public rights of way, is not publicly accessible. Creating a new public park will support increased</p>



	<p>access and will include new facilities to encourage greater use of the greenspace.</p> <p>The area allocation in option 2, 3, and 4, of 2.68 Ha for a new school facility includes external space for dedicated playing field provision for team sports, which will offer the wider opportunity for community use.</p>
Social Value	<p>Construction jobs and apprenticeships will be created through any residential or new educational provision. There will also be secondary spend within the local economy.</p>

6 Appendices

Appendix A - SHLAA Extract for Brandhall.

Appendix B – 1948 Ariel Photograph

Appendix C - Brandhall FAQs

7. Background Papers

Brandhall Options Cabinet Report (July 2022) and associated appendices.

