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**Meeting of the Cabinet – 28<sup>th</sup> June 2023**

**Report of the Director of Regeneration and Enterprise**

**Nature Conservation Site – Dudley No1 Canal**

**Purpose**

1. This report informs Cabinet of the results and recommendations of an ecological survey carried out for Dudley No1 Canal (Brierley Hill Section) the canal required an up-to-date ecological survey to establish if the previously identified existing ecological habitat status remained valid and appropriate.

The resulting recommendation is required to ensure that the Council's Local Plan and planning decision making is based on up-to-date evidence and can continue to be used as the basis for robust and defensible planning decisions.

**Recommendations**

2. It is recommended that the Cabinet: -
  - Approve the proposed upgrade of a section of the Dudley No1 Canal from Sites of Local Importance for Nature Conservation (SLINC) to Sites of Importance for Nature Conservation (SINC), to be known as Delph Locks SINC;
  - Note the proposal to retain the northern section of the canal as SLINC (detailed in section 3 of this report);
  - Approve the de-designation of the central area of SINC at Ketley Quarry, pending endorsement from the Birmingham and Black Country Local Sites Partnership and delegate the decision to the Cabinet Member and Director for Regeneration and Enterprise.

**Background**

3. Sites of Importance for Nature Conservation (SINC's) and Sites of Local Importance for Nature Conservation (SLINC's) are designations identified in Dudley Council's adopted Dudley Borough Development Strategy 2017 (DBDS, 2017) and form part of the Borough's environmental infrastructure.

Environment infrastructure also includes green space, community parks, canal corridors, and Local Nature Reserves (LNRs). Incorporating environmental infrastructure principles into Local Plan documents will help meet the existing adopted Black Country Core Strategy 2011 vision for environmental transformation.

4. The most important sites outside the statutory system are designated as SINC's for their regionally important nature conservation interest across the West Midlands. SINC's can be designated for both their ecology and geological interest. These are sites of substantive nature conservation values in the context of Birmingham and the Black Country.
5. SLINC's and SINC's do not receive statutory protection but are protected from harm by local policy set out in the Dudley Borough Development Strategy, (DBDS, 2017), the existing adopted Black Country Core Strategy (BCCS, 2011) and the National Planning Policy Framework (NPPF, 2021). Therefore, they are crucial in maintaining and enhancing the Borough's environmental infrastructure and ecological habitats.
6. Sites that support important wildlife habitat and geological features, form links between protected sites, and are part of the overall network supporting biodiversity are identified as SLINC's. SLINC's are of significance at the Ward to Borough level and frequently form important links between other designated nature conservation sites. Examples of SLINC's that are important linear features are canals and watercourses.
7. It is important that there is a robust, accurate, up-to-date, and defensible evidence base in place in relation to the nature conservation habitat quality, and ecological condition of both existing designated nature conservation sites and those areas of green space which currently have no designated nature conservation value in Dudley Council's adopted Local Plan – DBDS 2017 but may have potential to provide important habitats for wildlife and could therefore be upgraded to SLINC's or SINC's.
8. For these reasons the Dudley No1 Canal (Brierley Hill Section) has been subject to an ecological survey by independent suitably qualified ecologists so the Council can ensure that its records and information on the condition and habitat quality of sites is kept up-to-date, and accurate. This is in line with the National Planning Policy Framework (NPPF) 2021 and Dudley Council's Nature Conservation Supplementary Planning Document (SPD) 2016.

9. The proposal for the updated designation has been endorsed by the Birmingham and Black Country Local Sites Partnership (LSP) which is advisory body made up of ecologists and local representatives to ensure that site selection and designation is constant across the area and that sites are meeting the relevant criteria to be designated as a SINC or SLINC.
10. The report will now deal with the site outlined in the recommendations, to provide more details on the proposed boundary changes:

#### Dudley No1 Canal (Brierley Hill Section)

11. This site was surveyed to support the preparation of the Local Plan. The site runs from the A4036 road bridge at its most northerly point along the canal and through the 'Waterfront' canal basin and commercial area at Merry Hill and along to the road bridge of the B4172. The site boundary follows the canal edge at the north and widens at the southern end to encompass a small area of woodland and scrub surrounding the Delph Locks.
12. The canal is a Nature Conservation feature within Brierley Hill Strategic Centre, it acts a connective linear wildlife corridor in the urban area providing links to Saltwells and Fens Pool nature reserves. The canal also has considerable historical, landscape and amenity value for the local area. The site has interesting features with diverse grassland and aquatic flora, as well as being a good site for bird species. The majority of the linear site is the open water of the canal.
13. It is recommended that the southern part of the site surrounding the flight of the Delph locks is upgraded to a SINC (to be known as Delph Locks SINC) due to the diversity of species and mosaic of terrestrial habitats. It is also recommended that the northern canal line section remains as a SLINC.

#### Ketley Quarry

14. At the time of a survey to update ecological records in 2018 the quarry was still in a semi-operational mode, with planning permission in place for phased mineral extraction to take place until 2042. (P12/0773 Review of conditions attached to planning permission 97/50322 for the extraction of marl and subsequent restoration in accordance with the Environment Act 1995). At this time, engineered and phased infilling of the quarry void had also commenced, in conjunction with an acknowledgement that the economic extraction of Marl was becoming prohibitive due to a dramatically increased depth of the mineral formation.

15. The final restoration proposals for the quarry had also previously been approved under application 97/50322/C2, which discharged condition 23 of the original operational approval relating to this requirement.
16. The ecological survey of 2018 therefore confirmed the existence of Ephemeral/short perennial grassland within the central area of the site which had been designated as a SINC in the Dudley Development Strategy of 2017.
17. Due to the approved operational activities and restoration requirements of the quarry site, it was accepted that the central area covered by the SINC designation would necessarily be removed at some point in time, and due to geological/economic issues, the restoration phase of the quarry was therefore implemented at an earlier stage than anticipated. Essential engineering operations to ensure the future beneficial use and restoration of the quarry therefore progressed and had removed the central area of the site by mid-2019. To acknowledge this fact, the SINC designation of the central area of the site now needs to be de-designated.
18. The former quarry site has now been the subject of a fully engineered restoration, which will allow for future re-development for housing. An outline planning application for the redevelopment of the site for up to 650 houses (P22/1734) has been submitted and is currently the subject of consideration. De-designation of the central area of SINC will acknowledge the necessary and authorised removal of the designation in question and the consideration of such in the determination of the above planning application. De-designation of the central area of SINC will not impact upon the existing area of SLINC (wooded area) to the east of the site or the SINC that runs alongside this. The geological Site of Special Scientific Interest (SSSI) to the north, also remains unaffected and will be retained within the above outline planning application.

## **Finance**

19. The costs of undertaking the survey were funded from existing budgets and resources.

## **Law**

20. This piece of work is a key element for the evidence base of Dudley Local Plan work. The surveying of existing SINC and SLINC is also essential to ensure that such designations are based on robust and up-to-date evidence.

21. The potential for planning decisions to be challenged increases where it can be shown that Local Plan allocations are based on out-of-date or incomplete information. Ensuring that there is current information relating to the Borough's inventory of nature conservation sites, including SINC's and SLINC's, reduces this risk.
22. In addition, the Natural Environment and Rural Communities Act 2006 (NERC Act) and the Wildlife and Countryside Act 1981 (as amended) both place a legal duty on local authorities to conserve and protect biodiversity in the exercise of their functions.

### **Risk Management**

23. There are not considered to be any material risks from this report.

### **Equality Impact**

24. The content of this report complies with the Council's policy on Equality and Diversity given that the Ecological Survey play an important role in helping to conserve and protect important wildlife sites from inappropriate development pressures within the Dudley Metropolitan Borough.

### **Human Resources/Organisational Development**

25. There are no HR/OD impacts resulting from the report as any requirements will be managed from within existing resources.

### **Commercial/Procurement**

26. There are not considered to be any commercial/procurement implications because of this report.

### **Environment/Climate Change**

27. Climate change, environmental and sustainability matters form a core element of any development plan. Updating and surveying nature conservation sites will support this work and ensure up to date information is available.

## **Council Priorities and Projects**

28. The designation of this site will assist with current wider Council and Borough activity and projects including:

- Climate Change and Net Zero target by 2041
- Green spaces and the safety of the community



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## **Appendix One – Site Designation Maps**

### **List of Background Documents**

Dudley No1 Canal - Birmingham & Black Country Local Sites Assessment  
Report