

## DUDLEY REGULATION 18 LOCAL PLAN: REPRESENTATIONS BY DEFINE PLANNING AND DESIGN LTD ON BEHALF OF WILLIAM DAVIS HOMES

19<sup>th</sup> December 2023

### POLICY DLP1 – DEVELOPMENT STRATEGY:

#### **OVERALL SPATIAL STRATEGY – EXECUTIVE SUMMARY:**

William Davis Homes (WDH) objects in the strongest terms to the spatial strategy presented in Policy DLP1 and the Draft Local Plan (DLP), notably in relation to the proposed approach to the provision of housing.

Dudley Metropolitan Borough Council (DMBC) recognise that, even based on the supply of housing that is purported in the DLP, it would fail to meet its own local housing needs (LHN). However, the actual shortfall in housing will be significantly higher than DMBC suggest. That is because (i) the housing requirement must be increased above the baseline LHN to reflect the increased economic activity that is expected in the forthcoming plan period and provide for a suitable mix of housing, including affordable housing, and should be applied across an extended plan period to 2043, and (ii) the actual supply of housing in the plan period is likely to fall well below the figure expected by DMBC.

As a point of principle, DMBC's failure to meet its own housing needs is an untenable position, particularly in the context of its approach to plan making in recent years. Publicly, the Black Country Plan (BCP) was withdrawn because the Black Country Authorities (BCAs) were "*unable to reach agreement on the approach to planning for future development needs within the framework of the Black Country Plan.*" That related to DMBC's position that it could meet its housing needs within its own jurisdiction, but that it was unwilling to accommodate further residential development to address the unmet housing needs of its neighbouring authorities. Therefore, its expectation at that stage was that the other BCAs should meet their own housing needs by removing land from the Green Belt for development.

It is simply hypocritical for DMBC to now take the stance that it should not be held accountable for meeting its own housing needs, that it should not release Green Belt land for development, and that the residual unmet needs should be "*exported through Duty to Co-operate.*" That appears to be the reason behind the intention for the plan to be examined under the current arrangements (i.e. to ensure that DMBC are in position to 'claim' as much of the supply that is contributed by neighbouring authorities). However, that overlooks that a number of DMBC's neighbouring authorities also experience the same constraints and are often unable to meet their own needs and that there is likely to be a retraction in the unmet need contributions that were previously proposed by authorities in the Housing Market Area (HMA). Indeed, whilst the DtC paper refers to the proposed contributions from HMA authorities as at October 2021, it neglects to mention that South Staffordshire are re-considering their contribution, that Cannock Chase's plan has stalled with no sign that it will advance with the previous contribution retained, that Lichfield will now be restarting their plan (likely to be examined under the new planning system, without a formal DtC requirement) and that Shropshire's contribution specifically towards Dudley's unmet needs is limited to a maximum of c. 400 dwellings.

Therefore, given the lack of residual capacity elsewhere, there is an explicit acceptance through the DLP (and the spatial strategy that has been pursued) that DMBC's unmet needs will simply be unmet in any

form. That is contrary to the provisions of the NPPF and fails all tests of local plan soundness, as well as the requirements of the DtC. Notably, NPPF paragraph 11 (the presumption in favour of sustainable development) sets out the requirement for plans to promote sustainable patterns of growth by meeting the development needs of their area and aligning growth and infrastructure, with paragraph 60 reiterating the Government's intention to 'significantly boost' the supply of housing by ensuring that *"a sufficient amount and variety of land can come forward where it is needed."* The DLP will, however, plainly fail to meet those requirements in not meeting DMBC's own housing needs, and is contrary to the Housing Minister's direction for local plans to demonstrate that *"they have met as much of their need as they can throughout the process of producing their plan"* before seeking to export any unmet needs in order for plans to be sound (see their letter to Harborough District Council dated 8<sup>th</sup> September 2023).

The DLP in its current format will, therefore, plainly fail to meet the tests of soundness, as highlighted in the letter from a consortium of developers that is appended to these representations. Without significant amendments, therefore, it will experience a protracted examination period that will require DMBC to identify additional allocation sites during the examination process to remedy the fundamental failings of the plan. That will delay the plan's adoption and delivery of housing, which in the meantime will inevitably result in DMBC losing its marginal five year housing land supply position and leave the Borough open to speculative development until a sound plan is adopted.

Moreover, the insufficient and delayed delivery of housing that is currently proposed will only perpetuate the existing housing crisis and further heighten the effect of the associated socio-economic consequences on Dudley's residents. Notably, the under-provision of housing will result in escalating housing costs (to purchase or rent) relative to earnings, declining home ownership, a limited supply of Affordable Housing, and increasing housing benefit costs. These issues will also undermine the future health of the local and sub-regional economy by limiting economic growth, labour mobility, local economic spend and the contribution of the construction industry (see NPPF paragraph 82c, which highlights that the delivery of a sufficient quantum / mix of housing is central to removing the barriers to economic prosperity).

Those points should be reflected in Sustainability Appraisal (SA) testing of various levels of growth, which (as set out below) the DLP currently overlooks entirely. In assessing the environmental impacts of failing to meet the Council's housing need, the SA must also reflect that failing to meet Dudley's housing needs in full will also result in less sustainable patterns of growth. Indeed, planning for sufficient housing to allow residents to live and work in Dudley would limit the level of commuting to work, which can *"help to reduce congestion and emissions, and improve air quality and public health"* (NPPF paragraph 105). However, the proposed approach would do the opposite, in forcing some of those who work in Dudley to commute from elsewhere, often by private car.

As set out below, DMBC's refusal to consider the release of land from the Green Belt for development to meet the housing needs of the Borough is extremely concerning. That results in a DLP that fails each of the tests as set out in NPPF Paragraph 35. It is not positively prepared, is not justified, is not effective, and is not consistent with national policy. That is, the DLP is fundamentally unsound in NPPF terms.

Therefore, the DLP's spatial strategy needs to be revisited and fundamental changes need to be made in order for the DLP to be found sound. To address the proposed increased housing requirement, and reflecting that the DLP's identified sites will not deliver the level of housing that is expected, DMBC must identify additional allocations. In the context of the significant unmet needs that would otherwise arise, there are clearly exceptional circumstances to justify the release of Green Belt land, and DMBC should therefore undertake a pragmatic review of the Green Belt boundaries in the Borough.

As part of that, WDH's site at 'Bromwich Lane, Pedmore' (as identified in the submitted Vision Document) should be allocated without delay. WDH's more detailed comments in that regard are set out below.

**PLAN PERIOD:**

Paragraph 22 of the NPPF requires local plans and their strategic policies to *"look ahead over a minimum 15 year period from adoption, to anticipate and respond to long-term requirements and opportunities."*

The DLP suggests a plan period between 2023 and 2041; although it is noted that the employment land development calculations take account of commitments between 2020 and 2022. The proposed 2041 end date is predicated on DMBC's expectation as per the July 2023 Local Development Scheme (LDS) that the CLP will be adopted in Spring 2026. However, the timescales as set out in the LDS are extremely challenging, and itself recognises that the timely adoption is dependent on the timescales for the DLP's examination.

The LDS has already been subject to minor slippage in the 5 months since it was adopted, with the Regulation 18 DLP consultation currently being undertaken in Winter 2023 rather than Autumn 2023 as was expected by the LDS. That in itself is testament to the time consuming processes involved in each stage of a plan's preparation.

The LDS now allows for just under 1 year between the Regulation 18 and Regulation 19 DLP consultations, which is a particularly short time period given that the DLP requires very significant changes to address its failings, as set out in WDH's representations. Within that period, DMBC will need to process and take account of the comments that will be received through the Regulation 18 process, update the evidence base (which will require updates in relation to the spatial strategy, housing needs, the SA, viability, etc.), make the required amendments to the plan to address the matters raised by consultees, and publish the Regulation 19 plan (which itself will require political engagement and approval through DMBC's committee process. Clearly, that process will take significantly in excess of the timescales suggested, given the scale and complexity of the DLP.

The LDS then allows 6 months from the publication of the Regulation 19 DLP to submission. That process is equally as complex and time consuming, given that DMBC will need to consult on the Regulation 19 DLP for at least 6 weeks, process and consider the representations from the consultation, make any further amendments to the plan as required, and then ready the plan for its submission to the Secretary of State. That, too, is unlikely to be achieved in such short order, although it is of interest to note that DMBC appears to be aiming for the DLP to be examined within the current national planning policy framework.

Finally, the LDS allows for just 1 year from the submission of the DLP to its adoption. The examination will, however, need to consider matters of significant complexity and scale, not least the level and distribution of housing, the requirements of the DtC (given the intention for the plan to be examined against the current framework), and the relationship from a housing delivery perspective with the plans of DMBC's neighbouring authorities. That alone is likely to be a complex matter that could well require preparation of additional evidence and multiple rounds of hearing sessions, particularly given that the DLP will be one of the frontrunning local plans within the Black Country.

Given the scale and complexity of the DLP, which is effectively considering a range of matters that are currently covered by three tiers of adopted plans (the Black Country Core Strategy, Dudley Development Strategy and individual Area Action Plans), it is more likely that the plan will be adopted in late 2027 /

2028. To meet the requirements of NPPF paragraph 22, **the plan period should therefore be extended to 2043**, and the approach taken in strategic policies should be reviewed on that basis, most notably by increasing the housing requirement and identifying additional development sites.

#### **THE HOUSING REQUIREMENT:**

Contrary to the requirements of the NPPF paragraph 66, Policy DLP1 does not set a housing requirement for the plan area. This is a fundamental failing of the DLP.

Policy DLP1 instead makes reference to the quantum of housing that DMBC consider will be delivered in the plan period (at 10,876 net new homes). That figure that is disputed by WDH (see their response to Policy DLP10), but notwithstanding that, the DLP must clearly set out a housing requirement within Policy DLP1.

As a baseline, that should be based on the application of the standard method (SM) to establish the base level local housing need (LHN), but then must consider whether an uplift is required to take account of other relevant factors. The process that should be undertaken is set out below.

#### **The Housing Need:**

It is recognised that the supporting text makes reference to a housing need of at least 11,954 dwellings in the proposed plan period (2023 – 2041). Setting aside that the plan period should be extended as set out above, that equates to an annual housing need of 664 dwellings per annum (dpa), which roughly aligns with the SM-derived LHN of 647dpa.

However, the NPPF and Government's Planning Practice Guidance (PPG) are quite clear in stating that the SM *"does not produce a housing requirement figure"* and rather *"identifies a minimum annual housing need figure"* (PPG ID: 2a-002-20190220). The 'Housing and Economic Development Needs Assessments' PPG continues to state that *"there will be circumstances where it is appropriate to consider whether actual housing need is higher than the SM indicates."* It states that such circumstances include, but are not limited to, situations where increases in housing need are likely to exceed past trends because of:

- Growth strategies for the area that are likely to be deliverable, for example where there is funding in place to promote and facilitate additional growth;
- Strategic infrastructure improvements that are likely to drive an increase in the homes needed locally; or
- an authority agreeing to take on unmet need from neighbouring authorities, as set out in a statement of common ground.

It is noted that the evidence base published to support the DLP is supported only by a Housing Market Assessment for the entire Black Country area. However, that document does not provide a judgement as to whether there is justification to plan for a level of growth in excess of the SM-derived LHN.

Therefore, an updated Strategic Housing Market Assessment (SHMA) is required, and must account for the significant evidence that suggests that such an uplift is necessary. For example, the DLP itself recognises (at paragraph 3.2) that the West Midlands Combined Authority's (WMCA) West Midlands Plan for Growth will *"generate substantial productivity growth"* within the area. As part of its role, the WMCA has over recent years sought to introduce an aspirational growth strategy for the region that aligns employment, transport and culture-based considerations (amongst others).

A key element of that is the transport strategy for the region which notably includes the delivery of HS2 within the wider sub-region. As recognised by DLP paragraph 2.32, the strategy also includes “a new 11km Metro line” that is currently under construction and will link Dudley (Phase 1) and Brierley Hill (Phase 2) “with the wider West Midlands Metro and facilitate easy access to the national rail network” that will be enhanced through HS2. It is evident, therefore, that the region will experience significant investment and economic activity in the coming years as a result of that aspirational strategy.

That in itself will naturally drive economic activity in Dudley, as an area that benefits from a full range of services and facilities and is (increasingly) very well-connected to the remainder of the conurbation. That will inevitably also drive an increased demand for housing of all types, sizes and tenures. As set out in NPPF paragraph 82c, failing to align housing delivery and planned / likely economic will increase the shortfall in the pool of economically active and sufficiently skilled labour required to fill the jobs created, and in turn will stymie economic activity and / or result in unsustainable patterns of growth.

As part of that, DMBC must ensure specifically that they facilitate the delivery of a mix of housing sizes and tenures, including genuinely affordable housing. In that regard, the DLP’s failure to meet its housing needs in full, and the current portfolio of sites, is highly concerning. Indeed, the current Housing Market Assessment identifies an annual affordable housing need of 867 dpa (which equates to over 20% of the LHN) and also highlights (at Figure 8.1) that the highest overall requirement is for 3-bedroom houses, followed by 4-bed houses, then 2-bed and 1-bed houses. However, the spatial strategy relies heavily on supply from within strategic centres, and Policies DLP11 and DLP12 expect such locations to deliver 100% flats with a ‘low’ indicative amount of housing suited to families, and just 10% affordable housing. It is clear, therefore, that the strategy as a whole will fail to deliver the required level of affordable housing, and will not achieve the required mix of housing to meet local needs. That further demonstrates that an uplift above the LHN is required, and that greenfield sites (including Green Belt land) should be allocated to realise the required level of affordable housing delivery and an appropriate mix of houses of all sizes across the Borough.

There is, therefore, very clear justification for DMBC to set a housing requirement that exceeds the SM-derived LHN. Indeed, doing so would meet the NPPF’s requirement (as per paragraph 31) for local plans to “take into account relevant market signals.” Therefore, it is critical that DMBC instruct the preparation of an updated SHMA that considers the most appropriate figure for the housing requirement ahead of the Regulation 19 consultation, setting aside any capacity considerations.

### **Testing Levels of Growth:**

The SHMA must identify a range of higher level growth options, at which point an updated SA must also be prepared to test the potential effects relating to each of the growth options. The SA should recognise the socio-economic and environmental impacts of failing to meet the Borough’s housing needs as set out above.

However, the current SA falls a long way short of meeting that requirement. In relation to the quantum of residential development, the SA assesses an extremely narrow range of options that each are built on the assumption that DMBC will be unable to meet their own housing needs and that an urban-focused strategy is the only potential option. That approach suggests that the spatial strategy pursued through the DLP was pre-determined (likely based on political considerations), and that the evidence base has simply evolved to seek to justify the agreed approach.

The SA should, therefore, test the impacts of meeting the LHN in its entirety and providing for higher level(s) of growth above the LHN, through a ‘policy off’ approach (i.e. setting aside policy constraints such

as the Green Belt). The outcome of that will assist in identifying an appropriate housing requirement that provides for an aspirational strategy for Dudley.

**Overall Housing Requirement:**

It is not currently possible for WDH to calculate what the annual housing requirement coming out of that process will be, but it should be applied across the 20 year plan period between 2023 and 2043. That figure should be clearly embedded into Policy DLP1.

However, simply applying the base level LHN over the 20 year plan period would result in a housing need of 12,940 dwellings (c. 1,000 dwellings above the figure stated in Policy DLP1). **The housing requirement will, however, be much higher than that.**

**HOUSING SUPPLY:**

**Purported Supply:**

DMBC's purported supply of housing (10,876 dwellings) falls well below the Borough's minimum LHN in the proposed 2023 – 2043 plan period (12,940 dwellings), which is an unacceptable position for the reasons set out above.

However, WDH's comments in response to Policy DLP10 clearly demonstrate that there is significant uncertainty surrounding the sources of housing delivery that are identified in the DLP, and that a buffer of 20% should be applied to the residual housing requirement (i.e. the housing requirement once finalised, minus residential deliveries and commitments with an appropriate non-implementation rate) to provide certainty in that regard.

On the basis of the base level LHN of 12,940 dwellings (albeit noting that the exact housing requirement will be significantly higher than this, as set out in response to Policy DLP1) and accounting for an allowance of 2,717 dwellings for existing sources of supply, the **residual housing requirement should be at least 10,223 dwellings**; although it is likely to be much higher once an uplift to the housing requirement has been made).

However, WDH's comments highlight that, **in applying a more realistic position to the DLP's purported sources of supply, there will be a shortfall of 3,325 homes**, which must be addressed through the DLP for it to be considered sound.

**Green Belt development:**

In all scenarios, therefore, there is a significant shortfall of housing. Therefore, DMBC's refusal to even consider Green Belt release for residential purposes is entirely untenable, and fundamentally undermines the soundness of the DLP.

Indeed, it is quite clear that there are 'exceptional circumstances' present to justify the release of Green Belt land for development in accordance with NPPF paragraph 141. That is, the emerging DLP and previous local plans have clearly maximised the potential of "*suitable brownfield sites and underutilised land*" and sought to optimise the density of development within such sites as per NPPF paragraphs 141a and 141b. Furthermore, it is clear that surrounding local authorities could not meet Dudley's unmet housing needs within their own jurisdiction given that all surrounding authorities are constrained by Green Belt and, in the case of most authorities, are likely to be unable to meet their own housing needs as a result. In that regard, even by pursuing the approaches proposed in NPPF paragraph 141 (clauses a to c), a substantial shortfall in housing supply will still persist across the plan period.

Given the limitations of the DtC in this geographical area and under these circumstances, those unmet housing needs will simply persist if they are not dealt with through the DLP. In the context of the national housing crisis and the acute housing shortages in the region that is clearly not an acceptable position.

That will only serve to exacerbate the affordability issues in the Borough and wider sub-region and the associated socio-economic impacts that are set out above. Notably, the under-provision of housing will result in escalating housing costs relative to earnings, declining home ownership, a limited supply of Affordable Housing (particularly as the brownfield-first approach will inevitably deliver a lower proportion of affordable housing than a greenfield development would), and increasing housing benefit costs. From an economic perspective, it will limit economic growth, labour mobility and, therefore, overall economic prosperity. Moreover, the approach will result in a less sustainable pattern of growth, which will result in an increased level of commuting and private car use, which itself will result in environmental impacts.

Therefore, there is very compelling justification to review the existing Green Belt boundaries and release suitable sites for development. To address that, DMBC must undertake a pragmatic review of its Green Belt land, and releases all suitable sites identified through appropriate site assessments. In that regard, it is noted that the DLP continues to rely on the 2019 Black Country Green Belt Study (BCGBS) and the associated Landscape Sensitivity Assessment (BCLSA) despite WDH having highlighted multiple times that the reports are underpinned by significant methodological flaws and therefore that a number of promoted sites in the Green Belt have previously been rejected based on flawed justification. WDH's concerns in that regard are reiterated in response to Policy DLP10.

**Land at Bromwich Lane, Pedmore:**

WDH's response to Policy DLP10 also highlights that, to address the significant shortcomings in relation to the overall spatial strategy, housing requirement and purported housing supply, the DLP must allocate the site at 'Land at Bromwich Lane, Pedmore' as a residential allocation. The response to Policy DLP10 demonstrates the site's suitability in that regard.

**POLICY DLP2 – GROWTH NETWORK: REGENERATION CORRIDORS AND CENTRES:**

WDH does not object in principle to the delivery of brownfield sites, but highlights in response to Policy DLP10 that the identified sites are unlikely to deliver the level of growth suggested in the policy. Therefore WDH are of the view that DMBC must identify additional allocation sites, including those located in the Green Belt, without delay.

### **POLICY DLP10 – DELIVERING SUSTAINABLE HOUSING GROWTH:**

WDH's comments in response to Policy DLP1 raise significant concerns with regard to the overall spatial strategy for growth, and principally the level of growth that the DLP is planning for, and concludes that the DLP is fundamentally unsound as a result. In doing so, it demonstrates that there is clear evidence to suggest that the DLP should set a housing requirement that exceeds the SM-derived LHN, and highlights that a revised SHMA and SA should be prepared to identify an appropriate housing requirement figure that should underpin the spatial strategy in the DLP. The comments in response to that policy should be read alongside the following.

### **PORTFOLIO OF SITES:**

Policy DLP10 purports that sufficient land will be provided to deliver at least 10,876 homes in the plan period, with the vast majority of the purported supply (c. 73%) coming from new allocations as identified in the site or windfall sites. Of those sites, 96.4% of houses will be delivered on brownfield land, with just 3.6% delivered on greenfield land. Setting aside WDH's concerns that the actual supply from these sites will be lower than DMBC are claiming (as below), it is also noted the supply is homogenous in nature, with an overdependence on brownfield sites within the urban area.

The NPPF is clear, however, that local plans should "*identify a sufficient supply **and mix** of sites, taking into account their availability, suitability and likely economic viability.*" Whilst WDH recognise the merits of brownfield development sites, as set out below they can often be particularly complex and subject to delayed delivery as a result. Greenfield sites, on the other hand, are often significantly less complex and can be built out in a much more consistent manner. They can, therefore, be invaluable in retaining a five year supply of housing as required by NPPF paragraph 75.

Moreover, the cost of delivering brownfield sites often reflects such complexity; with sites often subject to unexpected additional costs associated with land remediation, re-locating existing services, and the provision of new infrastructure, amongst other factors. That can often render brownfield sites unviable unless a reduced affordable housing rate is accepted. Therefore, the current over-reliance on brownfield sites is likely to stifle the overall delivery of affordable housing, which is clearly a position that must be avoided.

In that context, and in light of the additional concerns set out below and in response to Policy DLP1, it is imperative that the DLP identifies additional greenfield sites to meet the higher housing requirement and diversify the DLP's portfolio of sites. Given that the exceptional circumstances required to justify Green Belt release are present (see WDH's response Policy DLP1), that should include the release of greenfield sites within the Green Belt.

### **CAPACITY AND DELIVERY ASSUMPTIONS:**

In addition to the overall concerns with regard to the portfolio of allocation sites, WDH also has significant concerns with regard to specific elements of the supply, as follows.

#### **Sites Under Construction and Committed Sites:**

Table 8.1 sets out that 948 homes are expected to be delivered from sites under construction, and that 1,965 homes are expected to be delivered from sites with planning permission or prior approval that are not yet under construction.

Whilst the sites that are under construction are likely to be delivered in their entirety, and therefore can be accounted for without a discount, it is inevitable that not all of the commitment sites will be delivered. Therefore, a lapse rate should be applied based on DMBC's own assessment of this trend. In the absence



of such analysis, a 10% deduction has been applied to this category by WDH to allow for potential non-delivery, which would reduce the figure to 1,769 dwellings.

**The overall figure for the 'current supply' category would, therefore, be 2,717 dwellings, rather than 2,913 dwellings as currently stated in Table 8.1.**

**Brownfield Development in Strategic Centre, Town Centre and Regeneration Corridors:**

WDH has no objection in principle to the delivery of brownfield sites within the Strategic Centres, Town Centres and Regeneration Corridors, but does note that the delivery of such sites can be very complex and protracted. Therefore, it is important that DMBC takes a realistic view of the deliverability of such sites within the plan period and their likely development capacity, as required by NPPF paragraph 74.

The delivery of brownfield sites can be significantly delayed at each stage of the development process. Brownfield sites often have the additional complexity of not only having a landowner (in some cases even multiple landowners) but also existing tenants. Before even having an opportunity to submit a planning application therefore, existing tenants / landowners can delay or halt development aspirations, whether that is because of differing opinions on land value, or difficulties in relocating tenants. That is particularly the case where development proposals are being brought forward for the comprehensive development of sites under control of numerous landowners, which is a key consideration for the DLP given that some allocation policies require such an approach rather than piecemeal development.

Issues in relocating existing tenants of the site and reaching an aligned agreement with landowners can also delay access to the site for technical and environmental site assessments. The early assessment of such sites is critical in identifying the key site considerations and potential constraints to development as raised above (i.e. land contamination, presence of utilities, etc.) that may drive the masterplan for the site's development or even severely limit the capacity of the site, as detailed further below. Collectively, those issues can delay the masterplanning process and consequently delay the submission of planning application(s) in relation to the site.

Even when applications have been submitted, the planning process can be complex and time consuming. A number of the proposed brownfield allocations are over 500 dwellings in size, and the Second Edition of Lichfields' *'Start to Finish'* report highlights that the average period from the submission of the first planning application to the delivery of the first dwelling on sites of this scale is 5 years, with there being no discernible difference between the timescales for brownfield and greenfield sites in that regard. The report does highlight, however, that brownfield sites are delivered more slowly than greenfield sites, which experience an average annual built out rate that is 34% greater than that of brownfield sites.

It is important, therefore, that DMBC take a realistic approach towards the timescales for the delivery of such sites, and that should be reflected in a site-by-site housing trajectory given the complexities that are at hand.

A key element of that is also ensuring that the capacities proposed in the DLP are robust, and WDH also has significant concerns in that regard. Whilst some sites have detailed allocation policies that set out the key constraints and opportunities that may drive the masterplan, the policies do not provide a concept plan or alike that would suggest where built development may be located or how the suggested capacities could be achieved. Rather, allocation capacity figures appear to be derived from the Strategic Housing Land Availability Assessment (SHLAA), which itself merely applies crude blanket assumptions based on the site area and an assumed density.

Therefore, there has been no consideration of how key matters will directly affect each site's residential capacity. That is despite the fact that the capacity of brownfield sites is highly sensitive to constraints and policy requirements. Development schemes will need to simultaneously balance existing constraints (i.e. utilities), the delivery of the required level of Public Open Space, the achievement of a 10% net gain to biodiversity (a new requirement which will be particularly challenging for smaller, more constrained sites), and the delivery of the required supporting uses (i.e. car parking, public realm, and potentially even non-residential infrastructure given the existing constraints to services and facilities as outlined in the DLP). Each of those considerations will inevitably influence the available net developable area (NDA). An appropriate density / scale of development will then need to be applied to that, taking account of what would be appropriate in the context of a site's setting; which is a particularly important consideration in Dudley given that a number of the strategic / town centre sites are located near to listed buildings and / or Conservation Areas, and that existing uses will also need to be taken account of.

That is to say that there are a number of factors that are likely to reduce the capacity of each allocation site, if and when they come forward.

It is imperative, therefore, that DMBC take full consideration of the factors influencing the deliverability of each individual site, and undertake an audit to establish the likely capacity of each site. Even if such an audit is undertaken, it is clear that additional flexibility is required to ensure that a sufficient quantum of housing is delivered in the plan period, taking account of the non-delivery / slow delivery of complex sites such as those falling within this category. That is discussed in further detail below.

### **Windfall Allowance:**

Table 8.1 claims that 2,685 dwellings will be delivered in the plan period from windfall sites, applying an allowance of 179dpa from Year 3 onwards.

Whilst 179 dwellings of windfall delivery may have been achieved in the last monitoring year, the DLP is taking a very prescriptive approach in seeking to maximise development from brownfield sites. Indeed, to satisfy the NPPF tests in relation to exporting unmet housing needs, it follows that the DLP must have identified *all* brownfield development sites that are available at this point in time. Therefore, whilst some new brownfield sites may become available, it is difficult to see how there would be additional capacity at this scale when the identification of such a number of brownfield sites both within the DLP and extant plans will inevitably have depleted the supply of available brownfield sites.

In order to ensure that DMBC's purported supply is robust, it must provide compelling evidence that takes full account of the above factors and establishes a realistic windfall allowance (as required by NPPF paragraph 71). Until such evidence has been prepared, it is suggested that a 50% reduction to the current windfall allowance should be applied, reducing the annual allowance to 90dpa. By excluding the first two years (as per the DLP), but applying the figure over the extended plan period between 2023 and 2043, that would result in a **windfall supply of 1,620 dwellings**; which is still a substantial quantum of delivery from such sites.

### **Net Supply and Actual Unmet Need:**

In that regard, it is clear that there is significant uncertainty surrounding the sources of housing delivery that are identified in the DLP. Therefore, there is clear justification that a buffer should be applied to the residual housing figure (i.e. the housing requirement once finalised, minus residential deliveries and commitments with an appropriate non-implementation rate) to provide certainty in that regard.

That would align with the recommendations of the Local Plan Experts Group, who suggest a 20% buffer above residual housing requirements to provide confidence that the required level of housing will come forward. On the basis of a base LHN of 12,940 dwellings (albeit noting that the exact housing requirement will be significantly higher than this, as set out in response to Policy DLP1) and accounting for an allowance of 2,717 dwellings for existing sources of supply, the **residual housing requirement should be at least 10,223 dwellings**; although it is likely to be much higher once an uplift to the housing requirement has been made. The DLP's claimed supply from all other sources (7,963 dwellings) will fall significantly below that figure.

However, that would be even more stark when a more realistic position is taken with regard to the other sources. **When applying the proposed deduction to the windfall allowance to reflect a more realistic level of delivery, it is likely that the DLP will actually deliver at most 6,898 dwellings (but likely fewer) against the residual housing requirement of 10,223 dwellings. That will result in a shortfall of at least 3,325 homes (but likely significantly higher once the housing requirement is uplifted).** That must be addressed through the DLP for it to be considered sound.

#### **IDENTIFYING ADDITIONAL SITES:**

Given the demonstrable shortfall in housing provision, it is imperative that DMBC identifies additional sites for residential development. To achieve a suitable mix of sites, the focus should be on identifying greenfield sites that are often more reliable sources of housing supply, frequently deliver a higher proportion of affordable housing, and can be built out more quickly.

#### **Green Belt release:**

WDH's response to Policy DLP1 highlights that there is clearly justification for the release of suitable Green Belt sites to respond to the housing needs of the Borough. Indeed, the 'exceptional circumstances' tests of NPPF paragraph 141 have been met because the DLP and previous plans have maximised delivery from brownfield sites and underutilised land and by optimising density yet there is still a significant shortfall, and because there is extremely limited scope for this to be met through the DtC given that neighbouring authorities are subject to the same constraints to development and themselves are likely to identify a substantial unmet need.

Concerningly, however, the SA has not tested the release of any Green Belt land in any scenario (with an implicit acceptance that DMBC will not be able to meet its housing need), nor has the SHLAA assessed any Green Belt sites. That must be addressed in light of the significant unmet needs arising in the Dudley, and the evidence base must be updated to identify development sites in the Green Belt ahead of the Regulation 19 consultation. That review should include a pragmatic 'policy off' audit of the suitability of sites.

#### **Green Belt and Landscape Evidence Base:**

A robust evidence base in relation to Green Belt contribution / harm and landscape and visual impact must also be prepared to inform the decision-making progress. In that regard it is concerning that the DLP continues to rely on the 2019 BCGBS and BCLSA despite WDH having highlighted at multiple points throughout the BCP's preparation that the reports are underpinned by significant methodological flaws and provided unsound justification for the previous rejection of a number of promoted sites in the Green Belt.

WDH's serious concerns in relation to the methodology were raised in a letter to the Council in 2020, which have been submitted alongside these representations for reference. The failings of the reports and

the underpinning methodology are best demonstrated in highlighting how WDH's site at Bromwich Lane, Pedmore (as identified in the submitted Vision Document) has been assessed.

In relation to the BCGBS, WDH note that the site is assessed as part of the broader Green Belt parcel of B60, which is a parcel of 181.3 hectares (of which the site is 4.2ha) that covers an area with significant variations both in terms of its character and contribution to the purposes of the Green Belt. That parcel varies from areas in urban fringe locations that are influenced largely by the adjacent urban environment (such as the site) to overwhelmingly open, vast and rural elements of the countryside (such as the land at the parcel's west), and as such is clearly an incorrect scale upon which to assess the site and its Green Belt contribution.

Such matters were considered in an appeal in St Albans District (Appeal Ref. 3265926), whereby the Inspector found that, as a result of the inclusion of a more discrete Green Belt site within a much larger Green Belt assessment parcel that included more significant Green Belt parcels, that the characteristics of the wider assessment parcels *"bear little or no relationship to the appeal site."* The Inspector therefore concluded that there was *"only very limited correlation between the conclusions drawn here in relation to the function of the land or assessment of its function relative to the purposes of the Green belt when compared to the appeal site"* in allowing the release of that Green Belt site.

The flawed methodology has resulted in a Stage 1 assessment that suggests that the assessment parcel (and the site by extension) make strong contribution towards purposes 1, 2, 3 and 5. However, that does not reflect the reality of the site and its contribution towards Green Belt purposes. This is a site which is already bordered to the west, north and east by well-established development, and the proposed development would not encroach south as far as the existing built form that borders it to the east and west. As such, the site's development would consolidate the existing built form (rather than resulting in urban sprawl), would have minimal impact in terms of the coalescence of settlements given that the development would sit in front of and below the existing settlement and therefore would not impact on the perception of the separate identity of Pedmore and Hagley, and would result in limited countryside encroachment (further negated by the site's strong landscape structure).

Therefore, the Green Belt analysis undertaken by Define (as summarised in the Vision Document) finds that a contribution at the lower end of moderate would be more appropriate for purposes 1, 2 and 3 given the site's context as set out in the above analysis. Clearly, therefore the conclusions of the BCGBS's Stage 1 assessment of Parcel B60 are wildly inaccurate as they have been directly informed by an unsuitable methodology that sought to assess a very large and varied Green Belt parcel, rather than breaking the parcel down into smaller parcels that more accurately reflect the clear variations in character and Green Belt contribution.

That Stage 1 assessment then fed into the Stage 2 assessment of the release of 'any uncontained land' within Parcel B60 (under Scenario B60s1). Notwithstanding that WDH's site cannot be considered 'uncontained' given that it is clearly contained by the built form, that approach was itself inconsistent in comparison to the assessment of other promoted sites, some of which were assessed as part of their own 'scenarios' whilst others were included in broader release scenarios such as that seen in scenario B60s1. As a result of that flawed methodology, the release of B60As1 was attributed 'very high' harm. An accurate assessment that took into account the site's context and characteristics (as presented in the Vision Document) would have found **low-moderate harm** associated with the release of the site from the Green Belt.

WDH also has similar concerns to the methodology and findings of the BCLSA, which acts as 'Stage 3' of the BCGBS. Again, the site is attributed to Parcel BL15 that is a 223.8ha parcel which again includes more urbanised land such as the site, as well as open, clearly more sensitive landscape to the west. Even when considered at the smaller scale of BL15s2, the site is assessed alongside land that would clearly represent a considerable visual extension into the countryside beyond the well-contained site and into the landscape that separates Pedmore and Hagley, and is therefore inherently more sensitive in landscape terms. The result of the assessment was therefore naturally weighted in light of this.

Indeed, and as set out in the attached letter to the BCAs, the conclusions found were often not relevant to the site; given its context as the least sensitive location within both Parcels BL15 and BL15s2. Principally, the assessment of those parcels found their 'moderate to high' sensitivity arose as a result to its "*additional role in providing a perceived gap*" between Pedmore and Hagley. Clearly, that is not the case for a development site that would not extend development any further south beyond the already established built form. As set out in the Vision Document and previous letter, a more accurate judgement of the site would be that it has **low-moderate sensitivity to built development**.

WDH has serious concerns over the publication of these fundamentally flawed assessments as part of the DLP's evidence base and is of the view that updated Green Belt and Landscape and Visual appraisals should be prepared to inform the identification of additional development sites to meet DMBC's housing needs.

#### **Site Suitability Assessments:**

In identifying further development sites, the DLP should also assess the overall suitability of promoted Green Belt sites, rather than simply refusing to assess them because they are located within the Green Belt.

The suitability of WDH's site at Bromwich Lane, Pedmore is demonstrated in the Vision Document that has been submitted alongside these representations, and its supporting documents (Access Strategy Note, Flood Risk Assessment, and Flood Risk Assessment Summary Letter). They collectively highlight that:

- The site is located at the south of Pedmore, a residential suburb of Stourbridge. The services and facilities located in Pedmore are accessible within a 10 minute walk to the north and the services available in Hagley to the south are accessible within a 15 minute walk. The existing right of way and pedestrian footpath links in the surrounding area provide direct routes in that regard;
- The site also benefits from good accessibility to higher order settlements, with bus stops located near to the site on Hagley Road that provide services to Stourbridge and Bromsgrove. In addition, Stourbridge Junction and Hagley Train Stations (which are both accessible via sustainable modes of transport) provide direct routes to Birmingham, Kidderminster and Worcester, and therefore offer the opportunity for multi-modal forms of travel;
- The site is located in Flood Zone 1, and the vast majority of the site is at very low risk of surface water flooding, aside from a very small linear area of low surface water flood risk at the site's boundary with Bromwich Lane. Consideration has been given to the drainage strategy, as set out in the Flood Risk Assessment that finds that the site is not at significant flood risk subject to the mitigation strategies that are embedded in the Masterplan. That includes the provision of a green corridor at the western boundary;
- There are no built heritage assets or designations within or in close proximity to the site, and the site shares no visual connection with any assets that are further afield. Therefore, there are no constraints to development in heritage terms;

- Given the lack of intervisibility of the site with Wychbury Hill and Hagley Park and Garden, the site does not contribute to the higher value of the land to the south and east in historic landscape terms;
- The site is not subject to any nature conservation designations. The current habitats within the site are generally of low ecological value, with the majority of the site comprising poor semi-improved grassland. Whilst the hedgerows within the site are of ecological value at the local level and provide potential to support bat activity, the only loss to hedgerows will be the small area of removal required to facilitate access, and green corridors will be provided at the site's western and southern margins alongside those hedgerows;
- An arboricultural assessment has confirmed that the majority of trees along the site boundary will not be impacted upon by the proposals, and that generous landscape buffers will be provided around them. The only tree removal would be a small section of tree group G4 to facilitate access and, whilst it is recognised that the group is subject to a Tree Protection Order, the assessment confirms that the loss of the small section of the group will not diminish its overall amenity value. Moreover, the loss of this small section will be more than offset by the significant tree planting that is proposed within the proposed open space area, including substantial tree planting to reinforce the southern boundary of the site.

#### **LAND AT BROMWICH LANE, PEDMORE:**

The emerging Masterplan for the site as set out in the Vision Document provides for the delivery of c. 85 – 100 dwellings. In doing so, it demonstrates how a well-designed scheme that integrates entirely with the existing built form will be delivered, to provide much-needed housing in a sustainable location, with residents having direct access to, and providing support for, the range of local facilities within the settlement.

As set out above, access to the site will be provided via a new junction off Bromwich Lane. The submitted Access Strategy note demonstrates that an access can be achieved of 7.3m in width, with 2.4m x 43m visibility splays achieved. The proposed access would widen Bromwich Lane where feasible along the site frontage to 6m in width to accommodate the additional traffic generated. That would include removing the west priority-controlled section of road to achieve unrestricted two-way vehicular movements.

The proposed residential aspect of the scheme responds sensitively to surrounding uses, integrating well with the existing built form. In responding to the existing pattern of development to the west of Bromwich Lane, the existing western hedgerow and tree corridor adjacent to the site's access will be retained and enhanced to reinforce the 'leafy' settlement character and filter views of the housing. Meanwhile, to respond positively to the dwellings along Hagley Road, dwellings that back onto the site's eastern boundary incorporate generous rear gardens with enhanced buffer planting to prevent overlooking into the existing properties.

The site's residential aspect will be designed in a perimeter block layout in order to promote activity and provide natural surveillance over streets and public spaces whilst also securing private boundaries (including the current existing exposed boundaries to the east). That built form will be served by a clear hierarchy of streets that establishes good legibility and also incorporates informal open spaces. That layout also includes a small residential square at the centre of the site, creating a focal / meeting space within the development.

To ensure that the site is well integrated into the wider landscape and reflect the nature of surrounding residential areas, the residential aspect of the site will incorporate street trees and significant planting

within gardens and open spaces to provide a green canopy effect to the development, within which residential properties will nestle. That planting will particularly increase at the site's higher slopes (such as the eastern boundary) to limit any views of the development and soften the appearance of the settlement edge as it is viewed from the wider landscape.

The treatment of the site's southern boundary also contributes to the development's sensitive approach to landscape character. The site's southern boundary will be reinforced through significant native tree and hedgerow planting that will offer further screening of the site from the surrounding landscape and create a clear and robust Green Belt boundary whilst rounding-off the built form. Beyond that southern boundary, the site's south-western corner will be free of residential development to allow for the provision of attenuation features, whilst the built aspect along the southern boundary to the east will also be offset from the site's boundary to accommodate an open space corridor. That open space corridor will also incorporate significant tree planting to provide an attractive setting for the open space, and border the proposed pedestrian link through the open space corridor that in turn links to the play space that is proposed near to the site's southern boundary.

A further open space corridor will be provided at the site's north-west, providing opportunities for habitat mitigation, informal recreation and also helping to assimilate the site with its surrounds. That open space area and the residential aspect adjacent to it will be well connected to the aforementioned more significant open space area to the site's south via a footpath link that will travel along the site's western boundary before heading towards its southern boundary. The footpath will then exit the site at its south-western corner, providing access to Bromwich Lane and Redlake Drive. That will provide a key pedestrian link towards the services and facilities available within Pedmore to the north.

#### **CONCLUSION:**

Therefore, it is critical that DMBC identifies additional development sites in order to fully meet its housing needs with an appropriate buffer that reflects the likely economic activity in the Borough and wider sub-region. The identification of additional sites is particularly important given that the allocations identified in the DLP are likely to deliver a significantly smaller quantum of development than is suggested, which will mean that the unmet need arising is likely to be much higher than DMBC contend, unless further sites are identified. A pragmatic approach towards identifying suitable sites within the Green Belt is, therefore, required, and as part of that DMBC must update its evidence base (principally in relation to Green Belt and landscape, but also in relation to site assessments more widely).

Based on the above analysis, it is clear that the site is not subject to any insurmountable constraints to development, and that it is a suitable site in a sustainable location for growth. Given that the harm associated with the site's release in Green Belt and landscape terms would be very limited by virtue of its containment, and in the context that the DLP must identify additional allocation sites to meet its housing needs (regardless of whether the above points are accepted), the site should be allocated for development in the Regulation 19 version of the DLP without delay.