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## **Representations to Dudley Local Plan Regulation 18 Consultation**

### **1. Introduction**

- 1.1 Claremont Planning is instructed by Harworth Group to submit representations to the current consultation on the Regulation 18 Draft of the emerging Dudley Local Plan (DLP). These representations raise substantial concerns in relation to the soundness of the proposed spatial strategy and will also specifically respond to proposed site allocation DLP H017 at Thorns Road, Brierley Hill.

### **2. Dudley Borough Spatial Strategy**

#### *Policy DLP1 – Development Strategy*

- 2.1. Policy DLP1 of the emerging DLP establishes that the Council intends to plan for the delivery of at least 10,876 new homes. The Policy states that the full housing and employment requirements for the Borough will be met through identified sites and through reliance on neighbouring and other local authorities with a functional link to Dudley, via the Duty to Co-operate. The supporting text provides that this figure is below the identified local housing need for 11,954 new homes as calculated by the Standard Method, which creates a shortfall of 1,078 homes. It goes on to state that the Council is working constructively with neighbouring authorities to help provide certainty as to how and where the borough's full housing and employment land needs will be delivered, and that this will be elaborated on at the Publication stage of plan-making.
- 2.2. On behalf of Haworth Group, Claremont Planning considers that this approach is misguided, and critically does not represent a positive approach to the delivery of new development within the Borough. The proposed strategy provides no assurance that the emerging DLP will be capable of meeting the identified housing needs of the Borough, which the Framework advises should be planned for as a minimum. Chapter 3 of the Framework provides the national policy on plan-making, with Paragraph 20 confirming that strategic policy should set an overall strategy for the pattern, scale and design quality of places, making sufficient provision for housing, alongside other elements such as infrastructure, community facilities and conservation. Crucially, Paragraph 35 goes on to identify the criteria for ensuring Plans are 'sound', which requires that as a minimum, Local Plans provide a strategy which 'seeks to meet the area's objectively assessed needs', with Footnote 21 establishing need should be assessed using a clear and justified method.
- 2.3. Within the supporting text to Policy DLP1, the Council recognise the objectively assessed housing need as calculated using the Government's standard method, as being 11,954. In accordance with national policy expectations set out in Paragraph 61 of the Framework, it is unclear why the Council has published a draft Plan that does not establish how this identified housing need is to be met in full. If there is to be reliance on neighbouring authorities to achieve this, then this should be evidenced by formal agreements with those authorities.
- 2.4. The need to pursue a Plan which provides for an appropriate level of housing is critical in order to ensure that the Borough is able to meet its local housing needs, including provision of affordable housing. Data published by the Department for Levelling Up Housing & Communities in December 2023 illustrates how affordable housing need has increased in the Borough in recent years, with the total number of households on the waiting list as of 31 March 2023 at 3,627; increased from 1,901 households in 2017. It is considered that this will only be addressed through the Council recognising this issue and proposing a Plan that will enable the delivery of an appropriate level of housing.
- 2.5. It should be recognised that the Levelling Up & Regeneration Act 2023 formally abolished the Duty to Co-Operate, with no confirmation as to what, if anything, will replace it. There remains significant uncertainty about the willingness of authorities to work together. Furthermore, the neighbouring authorities to Dudley include the other Black Country Authorities, Birmingham, South Staffordshire,



and Bromsgrove, which all face challenges to meet their own needs and are constrained by the Green Belt. Whilst neighbouring authorities are at various stages of plan-making, Sandwell Council recently published a draft Plan for consultation which specifically identified that the Borough will be unable to meet its own housing needs and was actively seeking agreement from neighbouring authorities. Furthermore, the Birmingham Issues & Options draft Plan published in autumn 2022, identified a shortfall of 78,415 dwellings when comparing sources of housing supply, including a windfall allowance, with the housing need identified for the emerging plan period to 2040. Based upon the constraints faced by adjacent authorities in meeting their housing needs, it should be recognised by the Council that it cannot be assured that it will be able to rely on neighbouring authorities to assist in meeting its housing needs.

- 2.6. Claremont Planning are however broadly supportive of the approach proposed through Policy DLP1 which seeks to concentrate new development within the existing urban Centres and within the Regeneration Corridors, at locations such as Thorns Road. To ensure the DLP can be found sound at Examination and subsequently adopted, it is advised that the Council should however reconsider the housing target identified in draft Policy DLP1, and instead propose that the Plan will deliver at least 11,954 new homes, such that it will be planning to at least meet the objectively assessed needs for the Borough, for the emerging Plan period. It is contended that the Council should seek to ensure that the most effective use of sites located within the established urban area which are suitable and available for development.
- 2.7. This is particularly important with respect to sites which already benefit from allocations through the adopted Local Plan, but have not yet been delivered. The land off Thorns Road, Brierley Hill is allocated for residential development under site allocation reference H13.17 by the adopted Local Plan, however the extent of site allocation proposed through the DLP under site allocation reference H017 has been reduced and with the land comprising the existing car park and industrial unit occupied by Sunrise Medical omitted from the allocated site extent. The Council have not provided any justification for this amendment to the allocated site extent, and it remains the intention of Harworth to bring the full extent of the adopted allocated site H13.17 forward for development. This represents an oversight on the Council's part such that the Council are unduly constraining the contribution that existing allocations of sustainable sites can make towards meeting housing needs. It is imperative that this is addressed through subsequent iterations of the Local Plan review, to ensure that the Local Plan is positively prepared and provides a strategy to meet the Borough's housing needs in full, in accordance with Paragraph 35 of the Framework.

*Policy DLP2 – Growth Network*

- 2.8. This draft Policy sets out the Growth Network for the Borough, which it provides is intended to be the primary focus for new development, regeneration, and infrastructure investment to support the delivery of significant growth and promote wider benefits to communities. Section 3 of the draft Policy confirms that Regeneration Corridors will provide a minimum of 4,948 new homes in sustainable locations.
- 2.9. The proposed Growth Network approach is supported, as this seeks to direct development to the most sustainable locations in the Borough, following on from the approach set out in adopted Policy including the Black Country Core Strategy and Dudley Borough Development Plan. The vision for Regeneration Corridor 3: Stourbridge to Lye, within which high quality residential communities with access to parks, employment opportunities, and high-quality transport links is strongly supported.
- 2.10. The allocation of the land off Thorns Road for residential development under allocation reference DLP H017 is strongly supported, in recognition of the highly sustainable location occupied by the site. It is considered that the development of the land off Thorns Road will contribute strongly towards the realisation of the Council's vision for Regeneration Corridor 3, by virtue of the site's close proximity to public open spaces including Stevens Park – Quarry Bank; employment



opportunities located at the Bott Lane industrial estate to the south; and local services and amenities; all of which are easily accessible by sustainable modes of transport.

- 2.11. Whilst the broad approach to growth outlined by Policy DLP2 is supported, it is critical that the Council ensure that the most effective use of previously developed and sustainable sites within Regeneration Corridor 3 is made, to ensure that such sites are able to contribute positively towards meeting the housing needs of the Borough. As identified in the response to Policy DLP1 above, the extent of land allocated under proposed allocation DLP H017 has been reduced from that which currently benefits from allocation under site allocation H13.17 of the adopted Local Plan. Justification for the proposed reduction in the allocated site extent has not been provided by the Council, and it remains the intention of Harworth Group to bring the entire extent of land currently allocated under adopted Local Plan allocation DLP H13.17 forward for residential development. It is advised that the Council amend the extent of proposed allocation DLP H017 to ensure that the redevelopment opportunity presented at land off Thorns Road can be realised in full.

### **3. Housing**

#### *Policy DLP10 – Delivering Sustainable Housing Growth*

- 3.1. Consistent with the figures identified in draft Policy DLP1, this policy confirms that the Council is planning to deliver at least 10,876 new homes in the plan period 2023-2041. Table 8.1 in the supporting text confirms the sources of supply, which includes current supply of sites under construction, as well as sites with planning permission; as well as housing allocations; windfall allowances; and 'additional capacity'. A small allowance for losses is also identified, to account for estimated housing demolitions across the plan period. The supporting text also acknowledges that the Plan is only aiming to meet 90.98% of local housing need, identifying that 96.4% of housing is expected to be delivered on brownfield land.
- 3.2. As noted in Section 2 of these representations, it is considered that the Council's approach to housing is fundamentally flawed. The Council should be planning to meet the Borough's objectively assessed needs as a minimum, with national policy in Paragraph 35 of the Framework advising that this is necessary in order to ensure that a Plan is sound. In particular, draft Policy DLP10 indicates that the majority of the Borough's housing need will be met through sites with existing planning permission and site allocations whilst draft Policy DLP10 also establishes that the development of sites for housing will be required to demonstrate a comprehensive approach, making the best use of land and not prejudicing neighbouring uses. It is however considered that the Council's approach to proposed site allocation DLP H017 on land off Thorns Road fundamentally conflicts with draft Policy DLP10.
- 3.3. As identified within Sections 1 and 2 of these representations, the Local Plan review proposes to reduce the extent of land allocated for development off Thorns Road, omitting the existing car park and Sunrise Medical industrial building from proposed allocation DLP H017. This represents a conflict with the extent of land currently allocated under site reference H13.17 of the adopted Local Plan, but will also fail to secure a comprehensive redevelopment of the site. This approach is contrary to the existing approach to the release of employment land, whereby Policy DEL2 of the Black Country Core Strategy seeks to ensure a comprehensive approach to development, to ensure that best available use of land is made and not prejudicing existing and neighbouring uses. This is the approach that has been taken by Harworth Group, which is seeking to bring forward the redevelopment of the site on a phased basis, starting with the initial land promoted under planning application P22/1363 that is currently being considered by the Council. It is the intention that over time, the entirety of the site will be brought forward for redevelopment, removing the potential for conflict between residential and commercial uses in the future and delivering a sustainable residential development on the site.



- 3.4. The extent of land proposed to be allocated under DLP H017 would leave the existing industrial operations at Sunrise Medical as established and enclosed by new residential development at three elevations. The proposed omission of the Sunrise Medical industrial unit from the proposed allocated site extent is not justified and has the potential to conflict with the new residential community sought to be established by the Council in this location. It will also prejudice the potential for future residential development to be pursued on the Sunrise Medical site, when that site is no longer required to accommodate employment uses and is available for redevelopment, as this would represent a direct policy conflict, despite the Council previously acknowledging the site as a whole as suitable for redevelopment.

*Policy DLP12 – Affordable, Wheelchair Accessible & Self-Build Housing*

- 3.5. The draft Policy DLP12 establishes the Council's intention to determine the appropriate type and tenure of affordable housing provision on a site by site basis with regard to the local housing needs and the latest available evidence. However, the draft Policy continues on, in point 4, to identify a recommended tenure split. As noted in Section 2 of these representations in respect of the overall Development Strategy, the affordable housing need in the Borough is significant and it is critical that the Plan advocates an approach that seeks to address this positively.
- 3.6. It is considered that the Policy as currently drafted provides a confusing and contradictory approach, suggesting that on the one hand, the Council wants to ensure provision of affordable housing accords with the needs of existing and future residents in line with the most recently available information. However, conversely, the policy suggests a prescriptive split of tenures. This conflicts with the requirement in the Framework for policies to be clearly written and unambiguous, so it is evident how a decision maker should react to development proposals. It would be preferable for the Council to suggest an evidence-based approach that allows for deviation from a set tenure split, as this would enable developments to respond current and anticipated affordable housing needs. This would also ensure that the type and tenure can best respond to local context, whereby there may be circumstances where certain types of affordable housing are better suited and would better address local needs. Pursuing a highly prescriptive approach can result in challenges in securing Registered Providers or accessing grant funding, which can ultimately challenge the overall delivery of a scheme or the affordable housing elements.
- 3.7. It is therefore recommended the draft Policy DLP12 is revised to remove reference to the tenure split set out in criteria 4 of the policy. Alternatively, at the very least, the policy should identify that this is an indicative tenure split and the split is to be agreed on a site by site basis, based on the most recently available evidence ensuring that it is consistent with national policy in regards to plan-making. This will help to ensure that affordable housing delivery is achievable in developments and helps to address the high level of affordable housing needs within the Borough.

#### **4. Employment**

*Policy DLP21 – Other Employment Areas*

- 4.1. Draft Policy DLP21 establishes the Council's proposed approach for employment areas that are not designated as either Strategic Employment Areas or Local Employment Areas but which comprise existing employment land within the Borough. Draft Policy DLP21 advises that such areas will either be retained and enhanced for industrial employment uses; or be redeveloped for housing or community, entertainment, food and drinks, or leisure uses. However, the redevelopment of 'other employment areas' within the Borough, will only be found acceptable under the provisions of Policy DLP21 where robust evidence has been provided to the Council to demonstrate that the site is no longer required, or viable, for industrial development. Policy DLP21 also requires that demonstration is provided to the Council to confirm that the site can be brought forward for housing in a comprehensive manner and that residential development would not adversely affect the ongoing operation of existing or proposed employment uses on the site or nearby to the site.



- 4.2. The aspirations of Policy DLP21, which promotes the redevelopment of employment land that is not allocated for a specific purpose for residential and commercial / leisure development is supported in principle. However, the policy text as currently drafted by the Council fails to acknowledge that a number of existing employment sites within the Borough are already allocated for redevelopment through residential use under the adopted Local Plan, and that such allocations are proposed to be carried forward through the Dudley Local Plan review. The loss of the existing employment use of these sites, such as the land off Thorns Road, has therefore already been assessed by the Council and deemed acceptable through the site allocation process for previous adopted policy documents. In such circumstances, the principle for the loss of such employment uses is already established, and Policy DLP21 should be amended to account for this to ensure that the delivery of allocated sites is not arbitrarily constrained.
- 4.3. The proposed extent of draft allocation DLP H017 would currently conflict with the approach proposed by the Council within draft Policy DLP21 whereby the proposed allocated site extent would result in an existing industrial use being enclosed by new residential development. This would not secure the comprehensive and coordinated redevelopment of this allocated site. It is therefore advised that the Council revisit Policy DLP21 and any associated site allocations which propose the redevelopment of employment land for residential use to ensure that there is consistency between these policy provisions. This is critical in order to ensure that the Plan is consistent with the provisions of national policy, in particular meeting the soundness test to be 'effective' as set out in Paragraph 35, and the requirement for policy to be clearly written and unambiguous, as required by Paragraph 16 to ensure that it is readily apparent how policies should be interpreted and redevelopment proposals be assessed in the decision-making process.

*Policy DLP22 – Balancing Employment Land and Housing*

- 4.4. The concerns identified above are also relevant to draft Policy DLP22 of the Local Plan which relates to balancing the need for employment land and housing. Draft Policy DLP22 establishes further requirements which development proposals must satisfy in order to justify the redevelopment of employment land for residential use. As such, it is considered that draft Policy DLP22 provides an unnecessary duplication of the Council's employment policy such that the draft Local Plan fails to provide a clear and concise policy against which development proposals can be assessed. Policies DLP21 and DLP22 as currently drafted are contrary to Paragraph 16 of the Framework, which requires Local Plan policies to serve a clear purpose and avoid unnecessary duplication of policies.

**5. Environment**

*DLP33 - Trees*

- 5.1. Draft Policy DLP33 of the draft Local Plan relates to trees, woodlands, Ancient Woodland, and Veteran Trees. The Policy requires that all new major developments must make a minimum contribution of 20% tree canopy cover across the development site (estimated growth 25-years from planting). Where existing levels of tree canopy cover are low, the policy notes that proposals incorporating additional tree planting above the minimum requirement will be considered positively, providing this will not adversely affect areas with recognised ecological or biodiversity value that would be damaged or destroyed by tree planting. Whilst the broad aspirations of this Policy are supported in principle, it is contended that this Policy requires substantial further refinement before it can be supported.
- 5.2. Part 1 and 2 of the draft Policy relate to Ancient Woodland and Veteran Trees, establishing that development would not be permitted that would result in the loss or damage to trees that fall within those categories. It is not considered necessary for the Local Plan to include policy relating to this, as Paragraph 180(c) of the Framework already provides that development resulting in the loss or deterioration of irreplaceable habitats, such as ancient woodland or veteran trees should be



refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. As noted in Paragraph 16 of the Framework, policies should avoid unnecessary duplication of policies, including those covered by policies in the Framework.

- 5.3. In respect of Part 3 of the draft Policy, this identifies a presumption against the removal of trees that contribute to public amenity and air quality, unless there are sound arboricultural reasons to support removal. It is generally acknowledged that when preparing development proposals, higher quality trees or those that contribute towards amenity are typically sought to be retained as these will contribute towards the green infrastructure framework for development. However, there are instances where poorer quality trees and/or specimens that are considered less appropriate, or are required to be removed to facilitate access or address other constraints are proposed to be removed. This will typically be required to be compensated through provision of new planting with suitable specimens in optimum locations, often further restricted in respect of matters such as age or size of specimen to ensure that the success of new planting is assured.
- 5.4. References within the Policy text to the proposed safeguarding of trees which make a contribution to public amenity are not supported, as this is a subjective matter, and therefore fails to provide the clarity of application required to be achieved by Local Plan policies. Furthermore, it is not considered to be necessary for trees of public amenity value to be safeguarded through Policy DLP33 of the Local Plan, whereby Tree Protection Orders already provide a mechanism for the Council to protect trees of particular amenity value. Therefore it is not considered proportionate or appropriate for the Council to establish a blanket protection for trees of alleged public amenity value through Local Plan policies. Draft Policy DLP33 as currently drafted, is therefore not considered to be consistent with the requirements of national policy, as Paragraph 16 of the Framework also requires that Plans are prepared positively, in a way that is aspiration but deliverable, and are prepared with the objective of contributing to the achievement of sustainable development. The Framework makes clear that sustainable development has multiple arms, with environmental objectives required to be balanced against social and economic matters as these are interdependent.
- 5.5. The draft Policy reinforces the Council's aim to achieve a minimum of 20% tree canopy cover on a Borough-wide basis, and as a result, part 5 of the Policy establishes that the Council will consider available data on extant canopy cover when making decisions on proposed loss of trees and woodland to accommodate infrastructure and other development proposals. Major developments are accordingly expected by the policy to deliver a minimum of 20% canopy cover, emphasising retention of existing established trees. Whilst the general aim to achieve 20% canopy cover across the Borough is recognised as a positive aspiration for the Council, it is considered that the requirement to achieve this on all major proposals is likely to be challenging and adversely impact viability, particularly in a Borough reliant on brownfield sites to deliver the majority of its housing needs. Policies DLP1 and DLP2 of the Local Plan establish that the Council does not consider it feasible for the Borough's housing need to be met in full within the administrative boundaries of the Borough, with considerable reliance upon the delivery of housing within adjacent authority areas proposed. In light of this, it is considered critical for the Council to carefully balance their social and environmental aspirations for development to ensure that ultimately, aspirations to enhance tree planting within the Borough does not further undermine the Council's ability to deliver new housing to meet identified needs. As such, it is suggested that the policy be re-framed to suggest this as an aspiration that is to be encouraged, rather than a requirement on all sites. This will ensure that it is consistent with the requirements of Paragraph 16 of the Framework, which requires policies to be aspirational but deliverable.
- 5.6. Whilst these represent some concerns with specific parts of the draft Policy, overall, the Policy as currently drafted is considered to be verbose and protracted, such that it is not consistent with the Framework's requirements for policies to be clear and unambiguous. The policy is repetitive, noting for example the presumption against removal of existing trees in part 3, part 9 requires



developments to be designed around trees already present on site, whilst part 11 requires existing mature trees to be retained and integrated into the proposed landscaping scheme. Similarly part 5 requires major developments to deliver 20% tree canopy cover, whilst part 21 repeats this requirement. In order to ensure soundness, the policy overall needs to be redrafted, removing unnecessary duplication from national policy or other guidance, as well as removing detailed policy elements that would be better contained within supplementary planning guidance.

## **6. Design Quality & Sustainability**

- 6.1. The draft Local Plan contains a suite of design policies, including but not limited to DLP39 – Design Quality; Policy DLP40- Landscape Design; Policy DLP41 – Increasing Efficiency and Resilience; Policy DLP43 – Managing Heat Risk; and Policy DLP47- Renewable & Low Carbon Energy.

### *Policy DLP40 – Landscape Design*

- 6.2. Policy DLP40 places significant emphasis upon the delivery of soft landscaping through new development, seeking to minimise the use of hard surfacing. Although this is supported in principle, the wording of this Policy as currently drafted is overly restrictive, requiring that hard surfacing should not be used unless there is an ‘overriding need’ in order to strengthen wildlife habitat, and achieve climate change benefits. It is contended that this Policy fails to appreciate that the sensitive use of hard surfacing can also achieve environmental benefits. For example, the use of permeable paving can assist in the sustainable drainage of sites and can provide filtration to improve water quality.
- 6.3. Policy DLP40 also stipulates that development proposals are required to include a mix of native and non-native tree and plant species, however this fails to appreciate that the suitability of sites to accommodate specific plant species will vary on a site by site basis. Policy DLP40 as currently drafted fails to account for this, and should therefore be amended to identify an aspiration for the use of native plant species to be prioritised where feasible and viable. Finally, Policy DLP40 requires that, in accordance with new legislation, developments should ensure that they do not lead to the spread of non-native invasive species and should be managed to prevent any future re-establishment of such species. It is not considered necessary for Policy DLP40 to reassert the provisions of national legislation in this respect and the policy text should be amended to remove this unnecessary duplication and ensure that this Policy serves a clear purpose, in accordance with Paragraph 16 of the Framework.
- 6.4. Furthermore, whilst generally the use of hard surfaces should be minimised, typically there will be an expectation for the provision of some areas of hard surfacing such as patios in gardens and paving around doorways, beyond the minimal footpath areas that are an essential requirement. The end-users requirements for developments should be a consideration that is balanced with environmental objectives in order to ensure that sustainable development will be achieved.

### *Policy DLP41 – Increasing Efficiency & Resilience*

- 6.5. Policy DLP41 identifies various measures proposed by the Council to increase efficiency and resilience against climate change. Whilst the broad principles outlined by this Policy are supported in principle, the draft Policy text is not considered to be clearly written and contains unnecessary duplication of the Council’s tree policy (DLP33). Policy DLP41 as currently drafted is not consistent with Paragraph 16 of the Framework and requires further refinement to ensure clarity and consistency in the application of these policies.

### *Policy DLP42 – Energy Infrastructure*

- 6.6. Turning to Policy DLP42 of the Local Plan, the Council proposes to require all major developments of ten or more homes to include opportunities for decentralised energy provision unless it can be demonstrated that the development is not suitable, feasible, or viable for district heat or decentralised power networks. However, where there is existing decentralised energy provision



available Policy DLP42 expects new developments to link into it, or be designed to accommodate a subsequent connection. Although the broad principle of this Policy is supported, it must be ensured that aspirations to secure connections to decentralised energy provisions do not compromise the viability and delivery of new developments, particularly where the policy as currently drafted is proposed to apply to schemes of as few as ten dwellings. Whilst part 1a of Policy DLP42, which relates to on-site decentralised energy provision, takes viability and feasibility considerations into account, this is not replicated within Parts 1b to 1c of the Policy such that it is ambiguous as to whether the Council will have regard to viability and feasibility considerations in respect of requirements for new development to provide linkages to offsite decentralised energy networks. It is advised that the Policy is reworded to identify that the provision of either on-site decentralised energy provision, or linkages to an existing network are aspirational and to be achieved where suitable and viable to ensure that this Policy is clearly written and unambiguous in accordance with Paragraph 16 of the Framework.

- 6.7. Notwithstanding the technical concerns raised within the above responses, it is considered that the number of policies which relate to design quality and sustainability is excessive. It is appreciated that the Council have sought to positively address the challenge of climate change through the Local Plan review, in accordance with Paragraph 16 of the Framework. However, it is considered that the number of policies proposed to address this matter, in addition to the quantum of text contained within each of these, fails to provide the requisite clarity as to how the Council's sustainability aspirations are to be achieved through new development. It is there advised that Policies DLP39; DLP40; DLP41; DLP43; and DLP47 are revised to ensure that each of these is clearly written and unambiguous as required by Paragraph 16 of the Framework. In particular, the Council should amend these policies so that they are consciously written, recognising that further detail as to the proposed implementation of these policies can be provided through preparation of a Supplementary Planning Document where appropriate.

## **7. Transport**

### *Policy DLP69 – The Transport Network*

- 7.1. Policy DLP69 of the Local Plan requires that new development ensures that an acceptable level of accessibility and safety can be achieved using all modes of transport to, from, and through the development. In support of applications for major development, Policy DLP69 requires the submission of a Transport Assessment that has been scoped and developed in consultation with the Council. The proposed requirement for the scope of Transport Assessments to have been agreed with the Council prior to an application's submission is not supported. The Planning Practice Guidance (PPG) provides national guidance on the scope of information required to be included within Transport Assessments at Paragraph 15 (reference ID: 42-015-20140306). As an appropriate scope and methodology to inform the preparation of Transport Assessments is established through national guidance, it is not considered necessary or appropriate for the Council to require this to be agreed prior to an application's submission. Such a requirement is considered to be contrary to national planning policy, and could result in unnecessary delays to the delivery of new development in the Borough.

## **8. Noise**

### *Policy DLP87 – Noise*

- 8.1. Policy DLP87 provides that the Council will not permit development for noise-sensitive uses will not be permitted where a juxtaposition of uses arise. This policy as currently drafted is not supported as it fails to appropriately recognise that mitigation measures can be employed through a development to ensure that the amenity of occupiers is not adversely impacted by adjacent uses. It is therefore advised that this policy is amended to establish that development proposals for noise-





sensitive uses where a juxtaposition of uses arises will only be permitted by the Council where it can be demonstrated that suitable mitigation measures to address this conflict can be implemented.

- 8.2. Proposed allocation DLP H017 currently conflicts with draft Policy DLP87 where the Council have sought to reduce the extent of land currently allocated under site reference H13.17 within the adopted Local Plan. The amended allocated site extent proposed by the Reg.18 Local Plan would result in an existing industrial unit being enclosed by new residential development brought forward under this allocation. The Council has not sought to justify the revised allocated site extent proposed at Thorns Road (DLP H017) and it remains the intention of Harworth Group to bring forward the entire extent of land currently allocated by the adopted Local Plan for development within the emerging Local Plan period through to 2041. Harworth Group are progressing with the delivery of the allocated site through application P22/1363 which will deliver 50 dwellings at the southern extent of the allocated site. Through the determination of application P22/1363 it has been demonstrated that suitable noise mitigation measures will be implemented to address noise generated by the adjacent industrial units. Policy DLP87 of the Local Plan must therefore be amended to take account of this and ensure that the Local Plan does not introduce potential policy conflicts which would unnecessarily constrain the delivery of an allocated site.

## **9. Regulation 18 Dudley Local Plan Part Two: Site Allocations**

- 9.1. Part Two of the Reg.18 Local Plan identifies the housing and employment allocations within the Borough. The land under the control of Harworth Group off Thorns Road, Brierley Hill is proposed to be allocated under site reference DLP H017, with an indicative housing capacity of 184 dwellings identified. The allocation of this site is strongly supported by Harworth Group, who intend to bring forward the entire site extent for development. The commitment of Harworth Group to the delivery of this site allocation is evidenced by the development proposals currently under consideration through application P22/1363 which seeks consent for 50 dwellings on land comprising the southernmost parcel of the wider allocation.
- 9.2. The land off Thorns Road is currently allocated through the adopted Local Plan under site reference H13.17 with this allocation proposed to be carried forward through the Local Plan Review. However, draft allocation DLP H017 proposes to exclude an existing car park and industrial unit from the extent of the existing site allocation and instead envelops this to include the industrial unit currently occupied by WHS Plastics within the allocated site, alongside the land to the south currently the subject of a planning application P22/1363. The extent of proposed site allocation DLP H017 conflicts with the extent of land currently allocated for residential development through the adopted Local Plan under reference H13.17. Adopted Local Plan allocation H13.17 includes the land currently the subject of application P22/1363, the adjacent car park, and the Sunrise Medical and WHS Plastics industrial units to the north. Moreover, the adopted Dudley Borough Development Strategy allocated site H13.17 for the delivery of 231 dwellings between 2016-2026. The amended allocation extent proposed through the draft Local Plan is not supported whereby the amended proposals would reduce the capacity of the allocated site by almost 50 dwellings. The challenges presented to housing delivery, not only within Dudley Borough, but throughout the West Midlands area are well documented and indeed are recognised by the Council within the draft Local Plan. The proposed reduction in the allocated site extent at Thorns Road, and the implications of this on the capacity of the site to deliver new residential development, in the context of a housing shortfall cannot be supported and fundamentally conflict with the Framework's requirement for Local Plans to provide a positive and justified strategy to meet the development needs of the Borough.
- 9.3. Furthermore, the Council have failed to provide any justification for the proposed reduction in the extent of land allocated at Thorns Road. As evidenced by application P22/1363 which is currently under consideration by the Council, Harworth Group are actively progressing with their proposals to deliver the full extent of land currently allocated under the adopted Local Plan H13.17. With



respect to allocated sites which are subject to live planning applications, it is maintained that the Council should have sought to engage with Harworth Group and adjacent landowners prior to making any amended to the allocated site extent. The majority of land proposed within the Reg.18 Plan to be excluded from the allocated site extent is subject to leases which will expire within the first five years of the Plan period. The remainder of the land is subject to leases that will expire in the later years of the Plan period and therefore will become available for development prior to 2041. The extent of land proposed to be allocated under DLP H017 should therefore be reconciled to reflect that currently allocated under H13.17 of the adopted Local Plan, whereby it remains that the existing allocated site extent is suitable, available, and deliverable within the Plan period through to 2041. In this respect, it should be recognised that delivery of this allocation can make an immediate contribution towards housing delivery in the Borough, as evidenced by current application P22/1363, whilst later phases of the development will assure housing delivery in the medium and long term through to 2041. Therefore, it remains Harworth Group's intention to bring the entirety of the site extent currently allocated under reference H13.17 of the Local Plan forward for development, and this should be supported by the Council and the discrepancy in the land proposed to be allocated under DLP H017 reconciled to address this.