

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

**Land at Clent View Road, Stourbridge**

Taylor Wimpey

15 December 2023

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# Contents

<b>1.0</b>	<b>Introduction</b>	<b>5</b>
	Land at Clent View Road, Stourbridge	5
	Plan-Making to Date	5
	Structure	6
<b>2.0</b>	<b>Areas of Response</b>	<b>7</b>
	Spatial Strategy Policies	7
	Non-Strategic Policies	27
<b>3.0</b>	<b>Land at Clent View Road, Stourbridge</b>	<b>29</b>

# Appendices

Appendix 1 Site Location Plan

Appendix 2 Vision Document



## 1.0 Introduction

- 1.1 These representations to the Draft Dudley Local Plan (“the DLP”) Regulation 18 Consultation have been prepared by Lichfields on behalf of Taylor Wimpey. We focus on the strategic matters that are contained within the consultation and relate specifically to Taylor Wimpey’s site entitled Land at Clent View Road, Stourbridge (“the Site”).
- 1.2 Taylor Wimpey seeks to work constructively with Dudley Council (“the Council”) as it progresses towards the submission and adoption of the Local Plan Review and trusts that the comments contained within this document will assist Officers in this regard.

### Land at Clent View Road, Stourbridge

- 1.3 A Vision Document (Appendix 2) has been submitted alongside these representations to support the proposals for residential development at Land at Clent View Road, Stourbridge. The Site lies within the Green Belt and is located immediately adjacent to the urban area. The site is comprised of greenfield land. It should be noted that no part of the site is covered by any statutory ecological site designations. A site Location Plan is included as Appendix 1.
- 1.4 The site is accessible to existing community and social facilities with public transport links available within walking distance of the proposed development. The site is situated is situated 0.4km from Shenstone Avenue bus stop, which provides regular services to the centre of Stourbridge and Dudley. Stourbridge Junction rail station is located approximately 3km from the proposed site and provides regular services to nearby and well-connected stations including Birmingham New Street, Kidderminster, Solihull, Worcester Shrub Hill, and Stratford -Upon-Avon.

### Plan-Making to Date

- 1.5 The existing development plan for Dudley comprises the following documents:
- The Black Country Core Strategy (adopted February 2011);
  - Dudley Borough Development Strategy (adopted February 2017);
  - Brierley Hill Area Action Plan (adopted August 2011);
  - Dudley Area Action Plan (adopted February 2017);
  - Halesowen Area Action Plan (adopted October 2013);
  - Stourbridge Area Action Plan (adopted October 2013)
- 1.6 Previously, the four Black Country Planning Authorities (Walsall, Dudley, Sandwell and Wolverhampton) were in the process of undertaking a review of the Black Country Core Strategy. As per NPPF paragraph 33, *“Reviews should be completed no later than five years from the adoption date of a plan and should take into account changing circumstances affecting the area, or any relevant changes in national policy”*.
- 1.7 The Black Country Authorities (BCAs) carried out an Issues and Options consultation (“IOC”) between 3rd July and 8th September 2017. Following on from this, the BCAs consulted upon the Draft Black Country Plan Consultation between 16th August to 11th
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October 2021. The draft plan considered a range of issues, including the amount of housing and employment land needed within the Black Country up to 2039. Other topics included, inter alia, infrastructure provision, health and wellbeing and the natural and historic environment.

1.8 However, it was announced in October 2022 that the Councils had failed to reach a consensus on the approach and therefore each Council is now preparing their own Local Plan. Subsequently, Dudley is in the early stages of preparing a new local plan, known as the Dudley Local Plan 2041. The Local Plan Review is required to review, inter alia, the housing and employment needs of Dudley.

1.9 The Council is now undertaking a consultation on the Draft Dudley Local Plan (Regulation 18) which will run up until 22<sup>nd</sup> December 2023. The draft plan considers proposed development allocations, the distribution throughout Dudley and a range of draft policies on topics such as infrastructure, housing provision, the environment, climate change, and transport.

## **Structure**

1.1 The Draft Dudley Local Plan sets out several policies relating to the different matters and issues. As such, these representations respond to the following draft DLP Policies within Section 2.0 of this report:

1 Spatial Strategy Policies

a Draft Policy DLP1 (Development Strategy)

2 Non-Strategic Policies

a Draft Policy DLP12 (Delivering Affordable, Wheelchair Accessible and Self-Build / Custom-Build Housing)

## 2.0 Areas of Response

### Spatial Strategy Policies

#### Draft Policy DLP1 (Development Strategy)

- 2.1 Taylor Wimpey **objects** to draft Policy DLP1 on the basis that it seeks to provide 10,876 dwellings in the plan period against a Local Housing Need (“LHN”) of 11,954, leaving a minimum shortfall of 1,078 dwellings. The DLP has failed to provide sufficient land to meet the minimum housing need, as per National Planning Policy Framework (“NPPF”) paragraph 11(b). Paragraph 68 requires that the Council will need to ensure that additional housing land should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability to deliver specific deliverable site for the first five years of the plan period and deliverable sites of broad locations to meet needs for year 6-10 and 11-15 of the plan period.
- 2.2 The Council has not done this and consequently Policy DLP1 in relation to housing land supply are not sound.
- 2.3 Not only is this approach fundamentally flawed and entirely contrary to the requirement of NPPF paragraph 35(c), but it is completely misaligned with “the Government’s objective of significantly boosting the supply of homes” (NPPF paragraph 60).
- 2.4 Principally, Taylor Wimpey considers that exceptional circumstances exist to justify the redrawing of Green Belt boundaries around the urban edge to release land to meet housing needs. In this context, case law within *Calverton Parish Council v Nottingham City Council & Ors* [2015] EWHC 1078 (Admin) (21 April 2015) confirms that the acuteness and intensity of housing need constitutes a matter for consideration in determining whether exceptional circumstances exist.
- 2.5 Taylor Wimpey also wishes to draw upon the significant issues raised by the Inspector in the examination into the Welwyn Hatfield Local Plan. Submitted for examination in May 2017, the plan as submitted did not provide for a sufficient housing land supply to meet the Full Objectively Assessed Housing Need (‘FOAHN’). Following stages 1 and 2 of the hearing sessions, the Inspector issued a ‘Green Belt review’ note in December 2017 setting out its initial thoughts relating to the soundness of the plan in the context of the Green Belt Review findings:
- 2.6 *“The Council has suggested that it is unable to meet its housing need because of Green Belt restrictions among other concerns. In my concluding remarks to the Hearing sessions into Strategic Matters, I pointed out that I did not consider the development strategy put forward in the plan to be sound, in part because there was insufficient justification for the failure to identify sufficient developable sites within the Green Belt. That is largely because the phase 1 Green Belt Review was at such a strategic level as to render its findings on the extent of the potential harm to the purposes of the Green Belt, caused by development within the large parcels considered as a whole, debatable when applied to smaller individual potential development sites adjacent to the urban areas. It goes without saying that a finer grained approach would better reveal the variations in how land performs against the purposes of the Green Belt. Such an approach is also more*
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*likely to reveal opportunities as well as localised constraints, both of which might reasonably be considered further.” (page 1) [Emphasis added]*

- 2.7 Following conclusion of the examination hearings over three years, the Inspector raised fundamental issues relating to the soundness of the plan and, amongst other matters, requested the Council to provide additional sites to make up the supply of housing land to meet the FOAHN. The Inspector later published its ‘Supplementary Conclusions and Advice’ note in June 2021, setting out:
- 2.8 *“14. The sites that passed the site selection process but were not submitted to the Examination, appear to have been rejected primarily because the Land Use Consultants (LUC) stage 3 GB study concluded that they would cause high or moderate/high harm to the GB and/or they would erode the green gaps between excluded villages. At the same time, the Council also resolved to no longer support a number of Regulation 19 sites that the LUC report had similarly concluded would cause high harm to the GB, including some that had already been examined and found to be potentially sound.*
- 2.9 *15. Whilst the harm to the GB’s purposes is certainly a significant consideration in the assessment of a site’s appropriateness for allocation, other than in locations that were specifically classified as “essential GB”, it is not a trump card. It is undoubtedly an important starting point for the assessment, but it is nevertheless only one of a number of factors that should be appropriately weighed in the exceptional circumstances’ consideration and then in the overall soundness balance. Whilst site selection should have regard to the extent of the harm to the GB, sustainability and accessibility factors, as well as other planning considerations, also warrant weight in this balance.”*
- 2.10 In short, it is critical that the Council avoids a similar fate to that experienced by Welwyn Hatfield. The Local Plan should identify sufficient land and site to ensure that it is able to deliver the minimum housing need provided for with the Standard Method. Given the constrained urban nature of the borough this should inevitably include the release of land from the Green Belt.
- 2.11 NPPF paragraph 11(b) requires Dudley to provide for its objectively assessed need for housing as a minimum, as well as any unmet needs that cannot be met within neighbouring authorities. Table 5.1 of the DLP states that the shortfall (1,078 dwellings) is to be exported through the Duty to Co-operate. Taylor Wimpey does not consider this to be a sound approach and explains why in detail below.
- 2.12 The significant unmet housing need within the Greater Birmingham and Black Country Housing Market Area (“GBBCHMA”) has not been acknowledged by draft Policy DLP1. In consideration, it is unlikely that Dudley’s shortfall will be accommodated by neighbouring authorities.
- 2.13 Paragraph 8.4 of the DLP states that the housing supply will accommodate 90.98% of current local housing need up to 2041 (homes) with 96.4% of the supply on brownfield land and 3.6% of the supply on greenfield land. Approximately 3,000 dwellings will be provided through the delivery of windfall sites.
- 2.14 Taylor Wimpey also raises concern in regard to the deliverability of brownfield land and considers the stated supply to be an inaccurate figure. The shortfall of housing within Dudley is likely to be to a greater degree than what has been stated within the DLP.
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2.15 The DLP's approach through draft Policy DLP1 is flawed on several grounds, and these are set out as follows and below:

- 1 **Local Housing Need:** The Local Housing Need has not been met within the spatial strategy which is the minimum housing need. The Council has not assessed whether a housing requirement greater than the Local Housing Need is justified.
- 2 **GBBCHMA Unmet Housing Need:** The DLP fails to acknowledge the unmet housing need arising from the GBBCHMA when seeking to export Dudley's housing shortfall.
- 3 **Black Country Unmet Housing Need and Duty to Cooperate:** The Duty to Cooperate has not been fulfilled and the unmet housing need identified has been deferred rather than dealt with, contrary to NPPF paragraph 35(c). Dudley has not assessed the reasonable alternatives capable of meeting the minimum housing need.
- 4 **Sustainability Appraisal:** The Draft Sustainability Appraisal fails to consider all of the options available to meet the LHN as well as the GBBCHMA's unmet need, and therefore would not be justified as per NPPF paragraph 35(b).
- 5 **The Deliverability of Brownfield Land:** The proposed supply of brownfield land and windfall sites is an unrealistic strategy. In reality, the shortfall of housing land is greater than what has been stated within the DLP.
- 6 **Exceptional Circumstances and Green Belt Release:** The DLP does not seek to identify, allocate and release a sufficient supply of land within the Green Belt for housing. The DLP does not recognise that exceptional circumstances for the release of land from the Green Belt exist.

### **Local Housing Need**

2.16 Draft Policy DLP1 is unsound. Draft Policy DLP1 has not considered whether a housing requirement greater than the LHN is justified. The proposed spatial strategy is unjustified and so there is a degree of uncertainty as to whether the LHN will be met.

2.17 In this context, paragraph 11b of the NPPF is clear that:

*“Strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:*

- 1 *the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area; or*
- 2 *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*

2.18 The NPPF also states that:

*“To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance...” (Para 61)*

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- 2.19 It has already been acknowledged that the LHN for Dudley over the upcoming Local Plan Period (2023-41) is 11,954 dwellings as calculated by the Standard Method. When compared to the housing target set for the Borough (10,876 dwellings), a shortfall of 1,078 homes is created.
- 2.20 Taylor Wimpey considers that draft Policy DLP1 is currently unsound as the proposed spatial strategy is unjustified and so it is uncertain as to whether the LHN will be met. As discussed below, draft Policy DLP1 (3) aims to export the shortfall to neighbouring authorities but fails to acknowledge the severe unmet need within the Housing Market Area. The uncertainty associated with the allocated and emerging contributions from neighbouring authorities means that Dudley's shortfall will likely be deferred rather than dealt with. The Council must identify additional land in order to meet this unmet need and Taylor Wimpey considers the release of Green Belt land to be the most suitable option.
- 2.21 The DLP will therefore need to revise its minimum housing target in order to meet the LHN, and should consequently seek to plan for a minimum of 11,954 dwellings. This would equate to 664 dwellings per annum ("dpa") opposed to 604 dpa. Exporting the shortfall identified within the DLP would be found to be unsound by Inspectors during Local Plan Examination given the severe shortfall of the GBBCHMA's unmet need and the uncertainty associated with the allocated and emerging contributions (discussed below).
- 2.22 The LHN is a minimum target for housing development. The Council would require exceptional circumstances to apply a different target but if a housing requirement greater than the LHN is justified, the Council's shortfall would be more severe than what is stated. It is therefore important for the Council to consider whether a housing requirement above the LHN is justified. The Council should carry out an up-to-date housing needs assessment to establish if an additional housing requirement is required to take into account additional need.
- 2.23 NPPF paragraph 61 states that the local housing need figure determines the minimum number of homes needed. Therefore, an uplift to the LHN can be applied when supported by evidence.
- 2.24 Both the NPPF<sup>1</sup> and PPG<sup>2</sup> are clear that the LHN figure generated by the standard method is a minimum starting point (i.e. actual housing need may be higher than this figure). Moreover, elsewhere in the guidance, the PPG differentiates between the minimum figure arrived at through the standard method and 'actual' housing need which can be higher. Taylor Wimpey encourages the Council to conduct sufficient research in order to understand whether an uplift is required.
- 2.25 It is 'actual' housing need that represents the objectively assessed need to which the tests in paragraph 11 of the NPPF apply, and there is also a requirement for the Council to test reasonable alternatives<sup>3</sup>. Therefore, the Council should actively identify whether there are reasons for testing higher figures as estimates of housing need. Currently, the DLP does not confirm whether a housing requirement greater than the LHN has been tested.

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<sup>1</sup> Paragraph 61

<sup>2</sup> PPG ID: 2a-002

<sup>3</sup> PPG ID: 11-017

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2.26 Fundamentally, this is because the standard method does not attempt to predict the impact that future government policies, changing economic circumstances or other factors might have on demographic behaviour, nor considers local factors, policies and aspirations which might legitimately mean the Council should seek to plan for more homes than the minimum. The PPG goes on to state that it would be appropriate for a higher figure to be adopted on the basis of employment, infrastructure, affordable housing needs or unmet housing needs.<sup>4</sup> It is considered that the acute housing shortfall within the GBBCHMA could justify the adoption of a housing requirement greater than the LHN. If this is the case, it would be a suitable and justified strategy for Dudley to consider the assessment and release of Green Belt sites for housing development.

2.27 Where a housing requirement above the LHN is identified, Dudley will have to provide a greater supply of deliverable sites in order to meet the housing requirement. Taylor Wimpey considers that the identification of a number of suitable sites would accord with paragraph 60 of the NPPF which clearly states that:

*“To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed.”*

2.28 Taylor Wimpey welcomes the Council’s acknowledgement of Dudley’s LHN but objects to the Spatial Strategy set out in Policy DLP1. The proposed spatial strategy is unjustified and it is not clear whether the LHN will be met within the Local Plan period. Additionally, given the severe unmet need within the GBBCHMA. So that the Local Plan may be found to be sound, Taylor Wimpey urges the Council to consider the release of suitable sites from the Green Belt so that as a minimum, the LHN is met.

### **GBBCHMA Unmet Housing Need**

2.29 Draft Policy DLP1 is unsound as it fails to acknowledge and address the unmet housing need arising from the GBBCHMA, and instead seeks to increase the shortfall.

2.30 The GBBCHMA’s overall situation has primarily been set out within the:

- Draft Dudley Local Plan Duty to Co-operate Statement (October 2023)
- ‘Greater Birmingham and Black Country Housing Market Area (GBBCHMA) Housing Need and Housing Land Supply Position Statement Addendum’ (April 2023)
- Birmingham Local Plan Regulation 18 Consultation Document (December 2022)
- Draft Black Country Plan Regulation 18 consultation Document (August 2021)

2.31 In this regard, Taylor Wimpey notes that within the GBBCHMA there is emerging evidence of an acute level of unmet housing need. Birmingham City Councils New Local Plan 2020-2042- Issues and Options (“BCCIO”) has recently confirmed that, as of March 2022, Birmingham’s LHN figure is 7,136 dpa (Para 4.7). This includes an additional 35% for the top 20 largest cities in the UK.

2.32 Cumulatively, this would equate to a housing need figure of 149,286 dwellings for the 22-year plan period (2022 to 2042). The BCCIO states that the Council can currently

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<sup>4</sup> PPG ID: 2a-010

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demonstrate a supply of 70,871 dwellings, which includes completions between 2020/21-2021/22 of 6,624 dwellings. The BCCIO concludes that, at present, there is a shortfall of around 78,415 dwellings to be found through the preparation of the Birmingham Local Plan Review (Para 4.15).

2.33 Alongside Birmingham’s emerging unmet needs (c.78,000), another significant source of potential unmet needs is from within the Black Country. It is important to note that the Black Country Plan is no longer being jointly prepared and thus the Black Country Authorities will now prepare individual Local Plans; however, the unmet housing need (28,239 dwellings) still remains in the Black Country; albeit, now disaggregated amongst the four Black Country Authorities.

2.34 In this context, paragraph 11b of the NPPF is clear that:

*“b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas”*

2.35 The Draft Dudley Local Plan Duty to Cooperate Statement (October 2023) sets out the allocated and emerging contributions made by the GBBCHMA authorities and non-HMA authorities as of October 2021, which totals 14,410 dwellings:

Table 1 Summary of Direct Contributions to the GBBCHMA’S Housing Shortfall

HMA Authority	Emerging Plan Status	Date	Potential Contribution (Dwellings)	Attributed to the Black Country
South Staffordshire	Publication Plan (Regulation 19)	November 2022	4,000	Unspecified
Cannock Chase	Regulation 19	Approved September 2022	500	Unspecified
Lichfield	Examination in Public	June 2023	2,665	2,000
Shropshire	Examination in Public	September 2021	N/A	1,500
Stafford	Preferred Options (Regulation 18)	October 2022	2,000	Unspecified
Solihull	Examination in Public	May 2021	2,105	Unspecified
Telford & Wrekin	Regulation 18	October 2023	N/A	1,640

Source: Draft Dudley Local Plan Duty to Cooperate Statement (October 2023)

2.36 The report acknowledges that as of October 2023, the Lichfield Local Plan was withdrawn from examination and thus impacts the identified contribution to the unmet need within the GBBCHMA.

2.37 The GBBCHMA Housing Need and Housing Land Supply Position Statement Addendum’ (April 2023) also sets out the allocated and emerging contributions made by the GBBCHMA authorities and non-HMA authorities as of April 2023, which totals 18,420 dwellings:



Table 2 Summary of Direct Contributions to the GBBCHMA'S Housing Shortfall

HMA Authority	Emerging Plan Status	Date	Potential Contribution (Dwellings)	Attributed to the Black Country
South Staffordshire	Publication Plan (Regulation 19)	November 2022	4,000	Unspecified
Cannock Chase	Regulation 19	Approved September 2022	500	Unspecified
Lichfield	Draft Local Plan has been withdrawn	October 2023	2,665	2,000
Shropshire	Examination in Public	September 2021	N/A	1,500
Solihull	Examination in Public	May 2021	2,105	Unspecified
North Warwickshire	Local Plan Adopted	September 2021	4,410	Unspecified
Stratford on Avon	Preferred Options (Regulation 18)	June 2022	3,250	Unspecified

Source: GBBCHMA Housing Need and Housing Land Supply Position Statement Addendum' (April 2023)

- 2.38 In consideration, the total contribution towards the GBBCHMA unmet need is between 14,410 and 18,420 dwellings. Taylor Wimpey acknowledges that the Draft Dudley Duty to Cooperate Statement was published after the April 2023 GBBCHMA Position Statement and acknowledges two additional contributions, 1,640 dwellings from Telford and Wrekin, and 2,000 dwellings from Stafford. This brings the total potential contribution to 22,060 dwellings.
- 2.39 Even after the total potential contribution of 22,060 dwellings is taken into consideration, a significant unmet housing need would still remain within the GBBCHMA. The total unmet need equals 106,654 dwellings when you consider the shortfalls within Birmingham and the Black Country Authorities, meaning that a significant proportion of the unmet need would be deferred rather than dealt with.
- 2.40 Additionally, there is no formal agreement between the authorities making up the GBBCHMA regarding the apportionment of this unmet need, and importantly, these 'commitments' do not form part of any adopted Local Plan that has been tested and approved through the examination process. There is no clear indication in regard to where the contributions will be allocated and so uncertainty remains.
- 2.41 The total shortfall up to 2041 will of course be subject to consideration through the future plan making process for the remaining HMA local authorities. Walsall, Wolverhampton and Sandwell are also beginning their Local plan Reviews, meaning that the total shortfall may well increase.
- 2.42 In consideration, Taylor Wimpey advises the Council to note that there remains an acute housing land supply shortfall across the GBBCHMA that will need to be addressed. Even after all of the discussed contributions are made, a severe unmet housing need will remain unresolved. Paragraph 3.7 of the Council's Options to the Preferred Strategy sets out that; *"Whilst further clarity is required on the current status of Local Plans for Lichfield, South Staffordshire, Cannock Chase, Telford & Wrekin and Bromsgrove as the work on Local*

*Plans further progress, the potential contributions that could be apportioned towards Dudley's unmet need will make some significant headway in addressing the borough's unmet housing needs. It is for this reason that it is considered that 'exceptional circumstances' have not need triggered to justify the need to consider a review of the borough's Green Belt."*

- 2.43 Paragraph 3.11 goes on to acknowledge the potential to release land from the Green Belt, but concludes that the Council does not consider that identified shortfall in supply to be significant. As a result, the Council concludes that; *"Under the existing NPPF, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified through the preparation of updating of plans. As a result of updated urban capacity evidence and ongoing DtC discussions with neighbouring authorities and across the Black Country FEMA (see DtC and employment supply evidence 2023), Dudley's housing and employment shortfalls are not considered significant. It is therefore considered that exceptional circumstances have not been triggered and Green Belt boundaries are not proposed to be altered in the draft DLP."*
- 2.44 The spatial strategy proposed by Draft Policy DLP1 is therefore considered to be unsound as the DLP does not reasonably assess the scale and implication of the identified unmet need, or whether reasonable alternatives exist to accommodate the growth within the Borough through Green Belt release and the high-risk associated with exporting the shortfall (1,078 dwellings).
- 2.45 Taylor Wimpey considers that areas like Dudley with a large quantum of suitable land within the Green Belt has a duty to support housing growth and not only address its own housing need, but also the shortfall of housing provision within the HMA.
- 2.46 Conclusively, it is essential that Dudley considers the unmet housing need arising from the GBBCHMA, to avoid exacerbating the already significant shortfall of up to 106,654 dwellings.
- 2.1 Taylor Wimpey therefore considers that Dudley should assess alternative options for growth, including release of land from the Green Belt which are capable of meeting and potentially increasing the housing supply above and beyond the LHN.

### **Black Country Unmet Housing Need and Duty to Cooperate**

- 2.2 Draft Policy DLP1 is unsound as the unmet housing need has been deferred rather than dealt with, contrary to NPPF paragraphs 35(b & c), and the Duty to Cooperate has not been fulfilled.
- 2.3 As acknowledged above, there is an acute unmet housing need within the GBBCHMA that needs to be addressed through cooperation and suitable planning. Instead of seeking to maximise housing growth within Dudley and help reduce the severe shortfall, the DLP seeks to export 1,078 dwellings of its own need.
- 2.4 The DLP does not state why it is unable to accommodate Dudley's identified shortfall or the reasons for not assessing alternative options capable of accommodating a greater level of housing. Although paragraph 3.2.6 of Dudley's Draft Sustainability appraisal states *"it is unlikely that there would be sufficient brownfield sites to accommodate all the identified need"*, the Council has proposed a predominantly brownfield-led spatial strategy with
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minimal greenfield development. As identified, this results in a shortfall of housing which the Council aims to export to neighbouring authorities.

- 2.5 Consequently, the Council has published a Draft Dudley Local Plan Duty to Cooperate Statement (October 2023) (“DtC”) setting out how it assumes the shortfall will be addressed elsewhere through the local plan reviews of counterpart HMA authorities and the associated contributions. The desired approach would be to “*apportion the contributions between the four authorities based upon the use of migration data and the functional relationship between the exporting area and the individual BCA where the shortfall arises*” as stated at paragraph 2.44. Paragraph 2.44 of the DtC continues by stating that the “*approach is subject to all of the Black Country Authorities agreement via a Statement of Common Ground.*” This confirms that Dudley is yet to agree to a Statement of Common Ground with the neighbouring HMA authorities in regard to how the contributions will be distributed within the Black Country. There is therefore a degree of uncertainty in regard to how Dudley’s housing shortfall will be met.
- 2.6 Regarding next steps, Paragraph 3.3 of the DtC states “*the Council’s primary objective will be to prepare and complete a Duty to Co-operate Compliance Statement as the Dudley Plan progresses to Publication Regulation 19 Stage in Autumn 2024*”. The DtC is therefore the first iteration of the document and is yet to be finalised, increasing the uncertainty in regard to the unmet need.
- 2.7 Firstly, in the absence of any signed Statements of Common Ground (“SoCG”), Taylor Wimpey raises concern with the uncertainty associated with the distribution of the allocated and emerging contributions. Given the acute unmet housing need within the Black Country (c.28,000 dwellings), it yet to be confirmed whether Dudley’s shortfall can be met via the identified contributions listed above.
- 2.8 NPPF paragraph 35(c) confirms that plans are sound if they are “*based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground*”. Instead of seeking to accommodate the shortfall (1,078 dwellings) within the administrative boundary, Dudley proposes to defer the unmet need to neighbouring authorities even though there is an existing acute shortfall.
- 2.9 As outlined above, the draft Dudley Local Plan DtC states that a maximum contribution of 14,410 dwellings could be made toward the unmet need with the GBBCHMA. However, out of this total contribution, only 5,140 dwellings have been attributed to the Black Country. The DtC has sought to outline the potential contributions towards Dudley’s shortfall as demonstrated by the table below:

Table 2.1 Potential contributions towards Dudley’s Shortfall

Local Authority	Contribution	Status of Plan	Statement of Common Ground (SoCG)	Potential contribution towards Dudley’s shortfall
Shropshire Council	1,500 to BCAs	Reg 19 - Examination in Public	SoCG signed in July 2021	431 homes. Subject to formal agreement/SoCG between BCAs

Local Authority	Contribution	Status of Plan	Statement of Common Ground (SoCG)	Potential contribution towards Dudley's shortfall
Lichfield District Council	2,000 to BCAs	Regulation 19 – Publication Plan submitted to SoS	Drafted but not signed prior to submission	68 homes

Source: Draft Dudley Local Plan Duty to Cooperate Statement (October 2023)

2.10 However, given the absence of an SoCG, Taylor Wimpey considers these assumptions wholly flawed and misleading. Shropshire has agreed to allocate 1,500 dwellings towards the Black Country's unmet need, but as acknowledged, the distribution of the contributions between the BCAs is still unagreed. As for Lichfield, the Local Plan has been withdrawn from Examination in public and so there is also a degree of uncertainty associated with this contribution.

2.11 The PPG<sup>5</sup> confirms that the preparation of SoCGs with neighbouring authorities will contribute in demonstrating whether the duty has been met:

***“How will the duty to cooperate be considered at local plan examination?”***

*The local plan examination will first assess whether a local planning authority has complied with the duty to cooperate and other legal requirements. The Inspector will use all available evidence including statements of common ground, Authority Monitoring Reports, and other submitted evidence (such as the statement of compliance prescribed by Planning Inspectorate's examination procedure guidance) to determine whether the duty has been satisfied.” [Emphasis added]*

2.12 Until the Council has published such SoCGs and additional evidence detailing the discussions that have taken place, the duty to cooperate has not been fulfilled and a degree of uncertainty remains. The absence of any SoCG at this stage reinforces the apparent issues between the Black Country Authorities (“BCA”) as it is clear there remains a number of areas of disagreement regarding the distribution of the contributions.

2.13 Secondly, as the provisional housing contributions from neighbouring authorities addresses only a limited proportion of the shortfall (28,239 dwellings), the DLP has not sought to maximise housing land supply in order to deal with the residual unmet need as well as Dudley's own housing shortfall (1,078 dwellings).

2.14 In this context, NPPF paragraph 35(a) requires that Local Plans are positively prepared and provide “a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so”. At this stage of the DLP plan-making process, it is fundamentally unclear how the residual shortfall up to 2041 will be met, or how any consideration has been given to reducing the HMA's shortfall. In this respect, paragraph 3.3.5 of the Draft Dudley Local Plan Sustainability Appraisal further raises concern by stating:

*“Overall, Option 3 appears to be the most favourable housing spatial growth option as it ensures the housing need will be met, although there is also some uncertainty in the*

<sup>5</sup> PPG: 61-031-20190315

*impacts of this option given the unknown location of the exported proportion of growth.”*  
(Emphasis added)

- 2.15 Not only is this approach fundamentally flawed and entirely contrary to the requirement of NPPF paragraph 35(a, b & c), but it is completely misaligned with “*the Government’s objective of significantly boosting the supply of homes*” (NPPF paragraph 60).
- 2.16 As it is likely that Dudley’s shortfall will remain unaddressed given the BCA’s unmet need, Draft Policy DLP1 is considered to be unsound as Dudley are seeking to defer, rather than deal with, the issue of unmet housing need through the DLP. Dudley should therefore seek to ensure that the housing supply within its administrative area is truly maximised prior to being exported to other areas.
- 2.17 Taylor Wimpey therefore considers that the Council should consider and assess a spatial strategy that not only meets the development needs of Dudley, but also accommodates a suitable proportion of the unmet housing need within the GBBCHMA. Given the acute unmet housing need and the uncertainty associated with the allocated and emerging contributions, this is considered to be the most appropriate strategy for Dudley.
- 2.18 Whilst Taylor Wimpey acknowledges that it is not for Dudley to address the HMA’s unmet needs in full, given the scale of the shortfall arising from the GBBCHMA, Taylor Wimpey considers that Dudley must play a proportionate role.
- 2.19 It is important that Dudley makes it clear that it will help address the acute unmet need and should, where possible, be specific in the exact proportion of the unmet need that the upcoming Local Plan can accommodate. Draft Policy DLP1 seeks to adopt an alternative strategy by deferring Dudley’s unmet housing need and fails to acknowledge the severe shortfall within the GBBCHMA.
- 2.20 Indeed, this is particularly pertinent, given the Inspector’s recent findings<sup>6</sup> in respect of the Sevenoaks Local Plan where problems of unmet need were not adequately addressed through the duty to cooperate process, resulting in a terminal failure of legal compliance.
- 2.21 Unless a proportionate contribution towards the unmet needs identified is accommodated, Dudley risks not fulfilling its ‘duty to cooperate’ with neighbouring authorities, as required by paragraph 24 of the NPPF.
- 2.22 Taylor Wimpey supports Dudley’s acknowledgement of the Duty to Cooperate but also recommends that a proportionate contribution should be made in addition to meeting the Council’s own housing need. This would ensure that the emerging Local Plan can pass the test of soundness as per NPPF paragraph 35.
- 2.23 Taylor Wimpey considers that a functional relationship approach is a suitable strategy and refers to Lichfields’ ‘The Black Country’s next top model’. Lichfields’ model drew on the precedent set in the Coventry and Warwickshire HMA/North Warwickshire and has been again supported by the emerging approach in the Leicester and Leicestershire HMA. Both Stafford Borough Council and South Staffordshire Council reflected on Lichfields’ model in the latest sustainability appraisals for the most recent consultations, Taylor Wimpey

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<sup>6</sup> See ED40 at the Sevenoaks Local Plan Examination website:  
[https://www.sevenoaks.gov.uk/download/downloads/id/2731/ed40\\_inspector\\_s\\_second\\_letter\\_to\\_the\\_council\\_following\\_stage\\_1\\_hearing\\_sessions\\_28\\_october\\_2019.pdf](https://www.sevenoaks.gov.uk/download/downloads/id/2731/ed40_inspector_s_second_letter_to_the_council_following_stage_1_hearing_sessions_28_october_2019.pdf)

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therefore encourages Dudley to adopt Lichfield’s model in order to sustainably distribute the GBBCHMA’s unmet need.

- 2.24 The model calculates the proportion of housing that can be sustainably redistributed towards surrounding authorities based on the functional relationship between the administrative areas.
- 2.25 Such a model takes account of the below trends within the HMA and between authorities with a functional relationship:
  - 1 Migration patterns between authorities;
  - 2 Commuting linkages between authorities;
  - 3 Opportunities to capitalise on sustainable transport links;
  - 4 Affordability pressures; and
  - 5 The degree of environmental and physical constraints.
- 2.26 The objective should be to create an agreed position with regard to the spatial distribution of housing that is justified based upon technical evidence and which can be used to underpin the preparation of Local Plans.
- 2.27 This would ensure that as and when a spatial distribution methodology is agreed, Dudley will have in place a sufficient supply of sites which have been tested through an acceptable model and other evidence base documents.
- 2.28 Taylor Wimpey considers that the most suitable strategy for maximising housing growth would be through the release of sites within the Green Belt. The exceptional circumstances required for Green Belt release will be discussed below.

**Draft Sustainability Appraisal**

- 2.29 Draft Policy DLP1 is unsound as it fails to take into account the reasonable alternatives for housing growth and therefore would not be justified as per NPPF paragraph 35(b). The approach taken within the Draft Sustainability Appraisal (“SA”) is unjustified as it does not take into account all reasonable alternatives for meeting the unmet housing need and providing a sufficient contribution toward the HMA’s unmet housing need.
- 2.30 Chapter 3 of the SA sets out the various housing growth options assessed in sustainability terms. Table 3.1 of the SA outlines the three housing options subjected to the appraisal, as replicated below.

Table 3 Dudley housing spatial growth options identified by DMBC

Housing Option	Description of Housing Spatial Growth Option
Option 1	Under this option Dudley would be looking to accommodate Dudley’s housing need within the urban area. This would be met by allocating predominantly brownfield sites.
Option 2	This option would result in site allocations being designated within the urban area, which would include a predominate supply of brownfield sites and some low-quality open space sites with a focus on increased densities and maximising capacity and raising densities within centres and regeneration corridors, where appropriate. Under this option Dudley would look to accommodate the majority of its housing need of new homes within the urban area but would have a potential shortfall in its housing supply.

Option 3	In addition to option 2, under this option Dudley would look to accommodate its housing need of new homes within the urban area but would require a contribution from DtC partners towards the potential shortfall to enable the total housing need for the borough to be met.
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Source: Draft Sustainability Appraisal of the Draft Dudley Local Plan (October 2023)

- 2.31 As Stated by paragraph 3.4.1 of the SA, option 3 was selected as it would address the housing need through a balanced spatial approach.
- 2.32 However, paragraph 3.3.1 states:
- “When assessing the housing spatial options against the 14 SA Objectives, there is very little separating Options 1, 2 and 3 and it is difficult to identify a single best performing option. All would be expected to deliver a similar level of growth within Dudley.”*
- 2.33 Although, a specific housing figure is not assessed in regard to each option, it has been confirmed by the SA that the options would deliver a similar level of growth within Dudley. Taylor Wimpey considers this approach to be unsound as the SA has failed to assess alternative options for delivering a higher level of growth, such as by releasing suitable sites within the Green Belt.
- 2.34 Additionally, paragraph 3.3.5 of the SA confirms that there is a level of uncertainty attached to option 3 as the location of the exported housing shortfall is unknown and is yet to be agreed. This could mean that the minimum housing need within Dudley is not met within the Local Plan period given the uncertainty, and therefore justifies the assessment of alternative options for housing growth. Dudley has failed to assess different housing growth scenarios and instead seeks to defer the identified shortfall to neighbouring authorities. Given the severe unmet housing need within the GBBCHMA, Taylor Wimpey does not consider this to be a sound strategy.
- 2.35 There is seemingly no rationale or justification for the three housing options appraised, other than to achieve a predominantly brownfield-led development strategy. When discussing option 3, table 3.1 states that *“This option would result in site allocations being designated within the urban area, which would include a predominate supply of brownfield sites and some low-quality open space sites.”* (Emphasis added)
- 2.36 Para 8.4 of the DLP states that the housing supply *“will accommodate 90.98% of current local housing need up to 2041 (homes) with 96.4% of the supply on brownfield land and 3.6% of the supply on greenfield land – this accounts for all housing supply apart from the windfall sites.”* This confirms that the spatial strategy within Dudley is to be predominantly brownfield-led.
- 2.37 Paragraphs 3.1.1 to 3.1.3 of the SA acknowledge NPPF paragraph 61 which states that *“any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for”*. However, the SA has not attempted to assess a growth option that not only maximises housing growth within Dudley, but also makes a contribution to the unmet needs within neighbouring authority areas. Taylor Wimpey considers that the three identified options are too similar and advises the Council to assess alternative options for housing growth with a focus on maximising housing supply.

- 2.38 In this respect, the PPG<sup>7</sup> confirms that the reasonable alternatives are to be identified *“taking into account the objectives and the geographical scope of the plan or programme”*. Consequently, it is not within the remit or scope of the SA to appraise the sustainability credentials of exporting housing growth outside of the administrative area of Dudley. The SA should instead assess the options capable of maximising housing growth within the Council’s boundary.
- 2.39 When discussing sustainability appraisals, The PPG<sup>8</sup> also confirms that *“Its role is to promote sustainable development by assessing the extent to which the emerging plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives.”* The PPG<sup>9</sup> continues by stating *“Reasonable alternatives are the different realistic options considered by the plan-maker in developing the policies in the plan. They need to be sufficiently distinct to highlight the different sustainability implications of each so that meaningful comparisons can be made.”*
- 2.40 By omitting a higher-range growth option, for example an option which considers the release of Green Belt land for development purposes, the DLP has artificially omitted a reasonable but realistic alternative which could potentially provide more positive and less negative sustainability impacts, whilst still meeting the objectives and maximising housing growth.
- 2.41 Option 1 within the SA aims to accommodate Dudley’s housing need within the urban area predominantly on brownfield land. Option 3 is only a slight deviation with 3.6% of the housing supply being allocated to greenfield land. Taylor Wimpey does not consider that the SA has assessed an option which aims to meet *“the needs of its communities and businesses”* as stated within the DLP’s proposed vision. Dudley instead seeks to defer the identified shortfall of housing opposed to considering an option which maximises growth within the administrative boundary.
- 2.42 Consequently, the SA as currently prepared is unsound. It has failed to identify and test the sustainability implications of a growth option which achieves a higher level of housing development within Dudley’s administrative boundary, including the option of the release of Green Belt land to meet housing needs. For this reason, Draft Policy DLP1 is unsound as it conflicts with NPPF paragraphs 32 and 35(a & b).

### **The Deliverability of Brownfield Land**

- 2.43 Draft Policy DLP1 is unsound. The proposed supply of brownfield and windfall sites is an unjustified strategy which conflicts with NPPF Paragraph 35(b).
- 2.44 The DLP states that 96.4% of the total housing supply will be on brownfield land approximately and that 3,000 dwellings will be supplied through the development of windfall sites. Taylor Wimpey raises concern with the proposed spatial strategy, and considers the housing trajectory to be unjustified.

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<sup>7</sup> PPG ID: 11-019-20140306

<sup>8</sup> PPG: 11-001-20190722

<sup>9</sup> PPG: 11-018-20140306

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2.45 With regard to the use of land for the development of housing, NPPF paragraph 119 states the following:

*“Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or ‘brownfield’ land.”*

2.46 Paragraph 120 of the NPPF continues by stating that *“Planning policies and decisions should:*

- give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land; and*
- promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively”*

2.47 Taylor Wimpey supports this approach and agrees with the Council’s view that the redevelopment of brownfield land must be a first resort as this would be found to be sound in accordance with National Planning Policy. However, Taylor Wimpey raises concern over the deliverability of brownfield land and Dudley’s reliance upon this within Draft Policy DLP1.

2.48 A reliance upon the delivery of brownfield land in order to meet an identified housing need comes with a risk. While brownfield redevelopment can be an important strategy for addressing housing needs, there are several issues associated with the deliverability of brownfield land for housing development. Some of these issues include:

- 1 Contamination and Remediation Costs:** Brownfield sites often have soil and groundwater contamination from previous industrial or commercial activities. Remediation can be expensive and time-consuming, adding significant monetary and time costs to the overall development.
  - 2 Community Opposition:** Local communities may resist the redevelopment of brownfield sites due to concerns about environmental hazards, noise, traffic, and changes to the character of the neighbourhood. Public perception and opposition can slow down or halt the development.
  - 3 Infrastructure Challenges:** Brownfield sites may lack the necessary infrastructure, such as utilities, roads, and public services, to support housing development. Upgrading or installing infrastructure can be costly and may require collaboration with local authorities which is a time consuming process.
  - 4 Market Viability and Demand:** The location and history of brownfield sites may affect their market appeal. Developers must carefully assess the demand for housing in the specific area and whether potential buyers are willing to accept the history of the site. The inner-urban areas usually associated with brownfield sites also means that the cost of developing a site is far greater than a greenfield site. This can deter developers from investing into the redevelopment of specific areas.
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- 5 **Longer Approval Processes:** Due to the complexity of brownfield redevelopment, obtaining planning permissions and approvals from regulatory authorities may take longer compared to greenfield sites, leading to delays in project timelines.
- 6 **Financing and Funding Issues:** Securing financing for brownfield redevelopment can be challenging due to the perceived risks associated with contamination cleanup and uncertainties about the final development costs. Developers may face difficulties in attracting investment.

2.49 The challenges associated with the development of brownfield have been acknowledged by paragraph 6.6 of the DLP which states:

*“The DLP adopts a brownfield-first approach to maximise delivery of development within the urban area; however, poor ground conditions that are a legacy of the Dudley’s mining and industrial past are a significant constraint, in both physical and financial terms. Therefore, tackling significant and structural delivery constraints are a priority for interventions, as they affect much of the development land supply in the urban area.”*

2.50 Paragraph 3.2.6 of the SA also recognises the downfalls associated with brownfield land by stating:

*“Although Option 1 proposes development predominantly within brownfield sites, it is unlikely that there would be sufficient brownfield sites to accommodate all the identified need.”*

2.51 It has been accepted by both the DLP and the SA that the supply of brownfield land is incapable of meeting Dudley’s housing need, and that the poor ground conditions present a significant constraint. Taylor Wimpey considers that the supply is likely to be constrained further by the issues highlighted above, therefore reducing the housing supply and increasing the shortfall. And as discussed, the uncertainty surrounding deferring the unmet need means that the Draft Policy DLP1 is unsound.

2.52 Taylor Wimpey also raises concern in regard to the proposed supply of windfall sites and their associated deliverability. Windfall sites are parcels of land that become available for development unexpectedly or unintentionally. These sites are often not originally designated for housing, and their availability is typically unplanned. The deliverability and supply of windfall sites for housing development present multiple challenges such as:

- 1 **Planning Uncertainty:** Windfall sites often lack a predetermined designation for housing, leading to uncertainty about their development potential. Planning applications may not align with housing goals and policies making it uncertain as to whether permission will be granted.
  - 2 **Infrastructure Limitations:** Some windfall sites may lack necessary infrastructure, such as roads, utilities, and public services, making it challenging to integrate them into the existing urban fabric.
  - 3 **Limited Scale and Density:** Windfall sites are often smaller in scale compared to planned housing developments, which can limit the overall impact on housing supply and may not effectively address housing shortages.
  - 4 **Limited Control Over Design:** Developers may have limited control over the design and layout of windfall sites, especially if the sites are existing structures or spaces that
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require adaptation for housing purposes. This can often deter developers from investing into certain sites.

- 5 **Market Viability Issues:** The market demand for housing on windfall sites may be uncertain, and developers must carefully assess the economic feasibility of such projects. This uncertainty makes it difficult to estimate the future supply of windfall development.
- 6 **Inconsistent Housing Mix:** The unplanned nature of windfall sites may result in an inconsistent housing mix that does not align with broader housing strategies or local housing needs. This consequently impacts the housing supply associated with windfall sites and the Council's objective of meeting the housing need.

2.53 Taylor Wimpey accepts that that the proposed supply of windfall development is based on past trends, however, the high degree of uncertainty and unidentified nature raises concern. Windfall allowances comprise a significant element of the housing supply in Dudley, which therefore means that a high degree of inaccuracy is associated with draft Policy DLP1. Given the uncertainty associated with the delivery of windfall sites, Taylor Wimpey considers the reliance upon windfall development within draft Policy DLP1 to be unjustified.

2.54 Taylor Wimpey considers that the actual housing supply is likely to be lower than what has been stated within the DLP. This means that the actual housing shortfall is likely to be more severe than what has been presented by the Council.

2.55 Taylor Wimpey therefore considers the housing deliverability trajectory to be flawed and is in fact high-risk with a limited potential deliverability over the coming years.

2.56 The spatial strategy outlined within Draft Policy DLP1 is therefore unsound due to the deliverability of brownfield land and windfall sites.

### **Exceptional Circumstances and Green Belt Release**

2.57 Draft Policy DLP1 is unsound as it does not seek to identify, allocate and release a suitable supply of land within the Green Belt for housing. Consequently, this presents the risk that the housing need will not be met and the unmet need within the HMA will not be addressed.

2.58 Paragraph 13.3 of the DLP states:

*“The Plan is not proposing to review any of the borough's Green Belt boundaries or allocate any development sites or proposals within the Green Belt in accordance with the preferred spatial strategy.”*

2.59 No further explanation is provided in regard to why this is the preferred spatial strategy.

2.60 The NPPF is clear on the weight attached to Green Belt by the Government, and that *“once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans.”* (Para 140).

2.61 Paragraph 141 of the NPPF goes on to state that a local planning authority should have *“demonstrated that it has examined fully all other reasonable options for meeting its*

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*identified need for development*” and goes on to state that this will be assessed through a number of criteria which will consider whether the strategy:

- a “makes as much use as possible of suitable brownfield sites and underutilised land;
- b optimises the density of development in line with the policies in chapter 11 of this Framework, including whether policies promote a significant uplift in minimum density standards in town and city centres and other locations well served by public transport; and
- c has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through the statement of common ground.”

2.62 Taylor Wimpey supports this sequential approach and considers that, on the face of it, the Council’s current approach accords with the NPPF in principle. The extent of the Green Belt is such that, unless it is amended, it will significantly restrict the amount of residential development that could be accommodated in Dudley. Whilst Taylor Wimpey recognises that the Plan Review is at an ‘early stage’, it is considered important that the Council should sufficiently, and robustly consider all options for housing growth to demonstrate the soundness of its need to review the Green Belt boundaries, as required by the NPPF.

2.63 There is insufficient brownfield land to meet the Dudley’s development needs (i.e., point a), and by reason of this, the optimisation of densities on brownfield land is also unlikely to meet the development needs (i.e., point b). In terms of point c, given the 106,654 dwelling scale of the unmet needs across the GBBCHMA, it is unlikely that other authorities within the GBBCHMA could meet Dudley’s shortfall (a minimum of 1,078 dwellings) in full.

2.64 The DLP aims to achieve a spatial strategy that predominantly focuses on the development of brownfield land, allocating 96.4% of the housing supply to previously developed sites. Taylor Wimpey supports this approach and agrees with the Council’s view that the redevelopment of brownfield land must be a first resort as this would be found to be sound in accordance with National Planning Policy, but only where it can be demonstrated that the delivery of such sites is deliverable and viable.

2.65 The Council has accepted that the housing need cannot be accommodated in full on the available brownfield land within the administrative area. In order to meet the LHN, Dudley has proposed to export a shortfall of 1,078 dwellings to the neighbouring authorities within the housing market area (“HMA”) notwithstanding that there is no agreement or SOCG with neighbouring local authorities to meet such needs.

2.66 Draft Policy DLP1 has failed to acknowledge the severe unmet housing need within the GBBCHMA, with a shortfall of c.28,000 dwellings within the Black Country alone. Instead of seeking to accommodate Dudley’s shortfall, the Council has deferred 1,078 dwellings to the HMA, increasing the overall unmet need within the GBBCHMA. As discussed, there is a high degree of uncertainty as to whether the shortfall (1,078 dwellings) could be accommodated by neighbouring authorities.

2.67 Taylor Wimpey raises concern as to whether the shortfall can be accommodated by the HMA. Taylor Wimpey notes that discussions with neighbouring authorities will be undertaken through the DtC, however, other authorities within the GBBCHMA are already relying on the wider GBBCHMA to meet their individual housing needs, namely the Black Country Authorities with an overall shortfall of c.28,000 dwellings. As discussed, the

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overall shortfall within the HMA equals 106,654 dwellings when including Birmingham City Council's unmet need. Given the uncertainty associated with the allocated and emerging contributions towards the HMA's shortfall, it is unlikely that Dudley's unmet need will be accommodated by neighbouring authorities. Taylor Wimpey considers that Draft Policy DLP1 seeks to defer the shortfall (1,078 dwellings) opposed to addressing it within the spatial strategy.

2.68 There is a significant, and persistent level of unmet housing need across the GBBCHMA. Many of the Council's neighbouring authorities are already unable to meet their own needs within existing urban areas and are therefore unlikely to be able to accommodate Dudley's shortfall of housing. This is recognised by paragraph 3.3.5 of the SA which states:

*“Overall, Option 3 appears to be the most favourable housing spatial growth option as it ensures the housing need will be met, although there is also some uncertainty in the impacts of this option given the unknown location of the exported proportion of growth.”*

2.69 As previously discussed, Taylor Wimpey considers that the housing supply (10,876 dwellings) is inaccurate as the deliverability of brownfield land has not been appropriately assessed. The spatial strategy proposed is one of high-risk, as the actual supply of housing is lower than what has been stated.

2.70 In addition, Taylor Wimpey advises the Council to acknowledge that the LHN is a minimum starting point for housing need and that the housing requirement for Dudley could be higher when assessed under exceptional circumstances. It is therefore important for the Council to consider whether a housing requirement above the LHN is justified.

2.71 Taylor Wimpey therefore considers the housing shortfall within Dudley to be more severe than what has been stated within the DLP. And as discussed, it is unlikely that this unmet need can be accommodated by the proposed spatial strategy.

2.72 NPPF paragraph 11(b) states:

*“strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:*

- 1 *the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area;* or
- 2 *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

2.73 NPPF paragraph 35(c) requires Local Plans to be effective, they must be *“deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground”*.

2.74 Taylor Wimpey considers Draft Policy DLP1 to be unsound as the proposed spatial strategy will not meet Dudley's housing need, and has not acknowledged the acute shortfall within the HMA. Draft Policy DLP1 states that Dudley's unmet need will be dealt with through the Duty to Cooperate, however, Taylor Wimpey considers that this strategic matter has in fact been deferred given the uncertainty within the HMA. The spatial strategy conflicts with NPPF paragraphs 11(b) and 35(c).

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- 2.75 Given the shortfall in housing both within Dudley and the GBBCHMA, it is necessary to consider the strategic release of land from the Green Belt. In this context, *Calverton Parish Council v Nottingham City Council*<sup>10</sup> confirms that the acuteness and intensity of housing need constitutes a matter for consideration in determining whether exceptional circumstances exist.
- 2.76 There is, therefore, a legitimate and cogent need to consider the release of Green Belt land within Dudley to seek to reduce the level of unmet housing needs arising from Dudley and the GBBCHMA. As such, Taylor Wimpey considers that the acuteness of the unmet housing need can, and in this instance, should, constitute exceptional circumstances, as established in the Calverton case.
- 2.77 Given the insufficient supply and risks associated with the deliverability of brownfield land in Dudley and the uncertainty associated with the acute shortfall within the HMA, Taylor Wimpey considers that the exceptional circumstances for the release of Green Belt land exist. The most suitable strategy for achieving the required housing growth would be through the release of Green Belt land.
- 2.78 The unmet need is a fundamental issue of the DLP which, unless resolved at the Regulation 19 stage, will most likely lead to it being found unsound at examination. Additionally, it is an issue echoed by counterpart GBBCHMA authorities including South Staffordshire which, within its recent publication of the Local Plan Review Preferred Options (September 2021) consultation, sets out:
- “the Council will be working with the Birmingham and the Black Country authorities to ensure that housing supply within their administrative areas is truly maximised prior to being exported to other areas” (paragraph 4.11)*
- 2.79 It will therefore prove critical that the DLP assesses all reasonable alternatives for maximising housing growth, not only to address the 1,078 dwelling shortfall (minimum figure), but also to fulfil the Duty to Cooperate by ensuring counterpart GBBCHMA authorities are satisfied the DLP has truly maximised its housing land supply.
- 2.80 As the exceptional circumstances for Green Belt release have been demonstrated, the DLP should seek to allocate a sufficient quantum of land for housing through this local plan review in order to avoid the need for a further Green Belt review through future local plan reviews. In this regard, NPPF paragraph 140 states:
- “Strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period.”*

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<sup>10</sup> Calverton Parish Council v Nottingham City Council & Ors [2015] EWHC 1078 (Admin) (21 April 2015)

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## Non-Strategic Policies

### Draft Policy DLP12 (Delivering Affordable, Wheelchair Accessible and Self-Build / Custom-Build Housing)

- 2.81 Taylor Wimpey objects to draft Policy DLP12 on the grounds of soundness as the policy seeks to address viability on a site-by-site basis rather than through plan-led viability testing.
- 2.82 It is noted that within draft policy DLP12 (Delivering Affordable, Wheelchair Accessible and Self-Build/Custom-Build Housing), paragraphs 8 and 9 of the Financial Viability Assessments section state that;
- “On sites where applying the affordable housing or wheelchair accessibility requirements can be demonstrated to make the development unviable, the maximum proportion of such housing will be sought that will not undermine the viability of the development, subject to achieving optimum tenure mix and securing other planning obligations necessary for the development to gain planning permission.*
- Financial viability assessments conforming to national guidance will be required to be submitted and, where necessary, independently appraised by an appropriate professional appointed by the local planning authority at the cost of the applicant. Flexible arrangements will be sought through planning agreements, wherever possible, to allow for changing market conditions in future years. Any viability assessment should be prepared on the basis that it will be made publicly available other than in exceptional circumstances, and in such circumstances an executive summary will be made publicly available.* (Emphasis added)
- 2.83 This indicates that an application-led viability assessment will be required on a site-by-site basis.
- 2.84 However, the NPPF clearly indicates in paragraph 58 that;
- “Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.”* (Emphasis added)
- 2.85 As such, the draft Local Plan proposing for a viability assessment to be undertaken for all application demonstrates a clear conflict with national policy which indicates it’s at the applicant’s discretion to produce a viability assessment under Particular circumstances, and not on a site-by-site basis. This point is reinforced by paragraph 15 of the NPPF which states that *“the planning system should be genuinely plan-led”* and not led on a site-by-site basis.
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- 2.86 Taylor Wimpey therefore objects to draft Policy DLP12 (Delivering Affordable, Wheelchair Accessible and Self-Build/Custom-Build Housing) and find the Draft Policy to be unsound as the reliance on application led viability testing within the draft Dudley Local Plan would appear contrary to paragraph 58 of the NPPF.
- 2.87 The deliverability of Affordable, Wheelchair Accessible and Self-Build/Custom-Build Housing is critical to deliver as part of the plan strategy to meet identified needs and should be able to be achieved on sites identified for delivery through the draft Local Plan.



## 3.0 **Land at Clent View Road, Stourbridge**

- 3.1 As set out in Section 1.0 of these representations, Taylor Wimpey is promoting land at Clent View Road, Stourbridge for residential development. Taylor Wimpey UK Limited is a dedicated homebuilding company with over 126 years' experience; Taylor Wimpey has an unparalleled record in the housebuilding industry. Taylor Wimpey draws on experience as a provider of the best quality homes to meet the expectations of today's residents. Taylor Wimpey strives to locate development within sustainable locations and carefully considers both the present and future benefits of development, therefore, creating positive impacts on the surrounding environments and communities.
- 3.2 The Vision Document attached to appendix 2 of these representations demonstrates Taylor Wimpey's commitment to helping Dudley to achieve its aspirations and vision over the next Plan Period, by creating an attractive and healthy environment for future residents which focuses on sustainability, green infrastructure and biodiversity, community needs, accessibility and active travel.
- 3.3 The site, encompassing an area of 3.8ha, is currently comprised of greenfield land used as equestrian paddocks (Appendix 1 for a Site Location Plan). The site is located within the Green Belt and adjoins the built-up area. It is bounded to the north by a public bridleway beyond which is dense woodland and agricultural land. To the east there is a permissive footpath named 'Roman Road', Clent View Road and the urban area of Stourbridge. This footpath is separated from the Site and Clent View Road by hedgerows. To the south there is a side road and a collection of mature trees along with some dense shrubbery, beyond which lies High Lodge house and agricultural land. To the west, additional agricultural land borders the site; further afield, there is a patch of dense woodland extending from High Lodge Care Services northwards.
- 3.4 Taylor Wimpey considers that Land at Clent View Road forms a logical and sustainable location for an urban extension, and its release from the Green Belt would make a significant contribution to the housing needs of Dudley and the GBBCHMA. There are no physical or technical constraints upon the development of the Site, and currently, no viability issues affecting the deliverability of the Site. As such, if the Site is released from the Green Belt, it is considered to be suitable, available and deliverable within the first 5 years of the Plan Period.
- 3.5 Dudley is ambitious with its pro-growth agenda and aims to expand in order to meet the needs of the community. This is demonstrated within the vision for the new Local Plan emphasising growth in homes and jobs and building a strong and resilient local economy. However, as discussed above, future growth of the existing urban area and the deliverability of brownfield land is restricted by a number of physical and economic constraints. The actual supply of housing within the Local Plan period is likely to be lower than what has been stated within the DLP. It is therefore a suitable and justified strategy for the Council to consider the release of Green Belt land in order to meet the development needs of Dudley.
- 3.6 Taylor Wimpey considers that the land at Clent View Road offers an ideal opportunity to deliver a high quality, attractive and well-integrated new neighbourhood, which forms a natural and logical extension to Stourbridge with suitable connections to existing facilities and community services.
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- 3.7 The overall site area is 3.8ha, equating to approximately 80 new homes. The site provides the opportunity to provide a development which is specific to its context and responding to the needs of the local community. The proposals will retain and enhance the existing tree belts and hedgerows which run along the boundaries of the Site to improve levels of Site containment and mitigate visual impact. The Site is located to the west of the residential area of Stourbridge in close proximity to a number of services and facilities in Stourbridge. Schools, shops, residential communities, and leisure facilities are all accessible by a choice of means of transport, including walking and cycling. The site is situated is situated 0.4km from Shenstone Avenue bus stop, which provides regular services to the centre of Stourbridge and Dudley.
- 3.8 The proposed development at Clent View Road aims to create a welcoming environment that caters to the diverse requirements of prospective residents, addressing Dudley's housing needs in the upcoming Local Plan period. These plans adhere to the '20-minute neighbourhood concept, fostering improved access to sustainable transportation methods, bolstering pedestrian and cycling links, and promoting active travel. The location offers prospects for integration with current infrastructure, facilitating connections to nearby primary and secondary schools, healthcare facilities, and other essential amenities crucial for a high standard of living.
- 3.9 In summary, the site is 'suitable, available and achievable' and the Vision Document (Appendix 2), submitted in support of these representations, demonstrates that the site is capable of delivering an urban extension to the south-west of Stourbridge, on an unconstrained site, which aligns with the Vision and objectives of the new Local Plan.
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