

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

**Land at Foxcote Farm, Stourbridge, Dudley**

St Philips Land Limited

22 December 2023

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60644/01/JK/MSe  
27572692v1

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## 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 St Philips Ltd (“St Philips”). We focus on the strategic matters that are contained within the consultation and relate specifically to St Philips’ site entitled Land at Foxcote Farm, Stourbridge (“the Site”).
- 1.2 St Philips 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 Foxcote Farm, Stourbridge

- 1.3 A Vision Document (Appendix 2) has been submitted alongside these representations to support the proposals for residential development at Land at Foxcote Farm, Stourbridge. The Site lies within the Green Belt and is located immediately adjacent to the urban area. The site currently comprises agricultural land. A Site Location Plan is included as Appendix 1.
- 1.4 A separate Delivery Statement has also been prepared by CBRE to assess the viability of the proposed development against the policy requirements of the Dudley Local Plan Regulation 18 consultation. This clearly demonstrates that the land at Foxcote Farm can be brought forward on the basis of full compliance with the Local Plan and is fully viable and deliverable. A copy of the Deliverability Statement is appended to these representations as Appendix 3.
- 1.5 The site is accessible to existing community and social facilities with public transport links available within walking distance of the proposed development. Existing footways connect the site to bus stops on Oldnall Road, which provide connections to Merry Hill and Halesowen. The nearest station is Lye Railway station which is located 2.0km away, accessible within 20 minutes via public transport. The station provides services to Birmingham, Worcester and Stratford-upon-Avon.

### Plan-Making to Date

- 1.6 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)
- 1.7 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”.*

- 1.8 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 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.
- 1.9 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.
- 1.10 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**

- 1.11 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 and Evidence Base documents 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)
  - 3 Draft Dudley Local Plan Viability Assessment
- 1.12 In support of these representations, CBRE has produced a site-specific Deliverability Statement (Appendix 3) which will be discussed within section 3.0. Additionally, a Viability Report has been completed by CBRE (Appendix 4) which reviews the findings and assumptions put forward by Aspinall Verdi within the Dudley Local Plan Viability Assessment. The conclusions of this review will be summarised and discussed within section 2.0 of these representations.

## 2.0 Areas of Response

### Spatial Strategy Policies

#### Draft Policy DLP1 (Development Strategy)

- 2.1 St Philips **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.
- 2.2 Fundamentally, 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 needs 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 sites for the first five years of the plan period and deliverable sites of broad locations to meet needs for years 6-10 and 11-15 of the plan periods. The Council has not done this and consequently Policy DLP1 in relation to housing land supply is 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 In this regard, St Philips considers that the DLP’s approach through draft Policy DLP1 is flawed on several grounds, and these are summarised below:
- 1 **Local Housing Need:** The Council has not assessed whether a housing requirement greater than the LHN is justified.
  - 2 **A Spatial Strategy that Doesn’t Address Housing Needs:** The LHN has not been met within the spatial strategy, which is the minimum housing need.
  - 3 **Addressing Worsening Unmet Housing Needs:** The DLP fails to acknowledge the unmet housing need arising from the Greater Birmingham and Black Country Housing Market Area [GBBCHMA] when seeking to export Dudley’s housing shortfall.
  - 4 **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).
  - 5 **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).
  - 6 **The Deliverability of Brownfield Land:** The proposed supply of brownfield land and windfall sites is an unrealistic and unviable strategy. In reality, the shortfall of housing land is greater than what has been stated within the DLP.
  - 7 **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.

2.5 St Philips detailed objections in relation to the above grounds are set out below:

### **1. Local Housing Need**

2.6 Draft Policy DLP1 has not considered whether a housing requirement greater than the minimum LHN is justified and, on the face of it, is unclear as to whether the LHN will be met. 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<sup>7</sup>; 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”*

2.7 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)*

2.8 The DLP acknowledges 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.

2.9 The LHN is a minimum target for housing development. Whilst the Council would require exceptional circumstances to apply a lower housing requirement, the NPPF – at paragraph 61 – states that the LHN figure is a minimum number and that an uplift to the LHN can be applied when supported by evidence.

2.10 The PPG<sup>1</sup> is also 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 the ‘actual’ housing need which can be higher. St Philips encourages the Council to conduct sufficient research in order to understand whether an uplift is required.

2.11 It is the ‘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>2</sup>. Therefore, the Council should actively identify whether there are reasons for testing higher figures as estimates of housing needs. Currently, the DLP does not confirm whether a housing requirement greater than the LHN has been tested.

2.12 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

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<sup>1</sup> PPG ID: 2a-002

<sup>2</sup> PPG ID: 11-017



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>3</sup>

2.13 It is recognised that if further uplifts to the minimum LHN would require additional housing allocations, and that on the basis of the Council’s proposed spatial strategy, would result in a greater shortfall. However, it is critical that the Council considers whether a housing requirement above the LHN is justified, per the requirements of the PPG. On the basis that the Council has not prepared an up-to-date assessment of their housing needs, the Council should carry out an up-to-date housing needs assessment to establish if uplifts to the LHN figures are required to reflect affordable housing needs, economic growth or unmet housing needs.

2.14 Indeed, St Philips considers that the acute housing shortfall within the GBBCHMA could justify the adoption of a housing requirement greater than the LHN. In this instance, it would therefore be a suitable and justified strategy for Dudley to consider the assessment and release of Green Belt sites for housing development – discussed further below. Moreover, where a housing requirement above the minimum LHN is identified, Dudley would have to provide a greater supply of suitable and deliverable sites in order to meet the housing requirement, per the requirements of 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.”*

2.15 Ultimately, the Council has failed to consider whether the minimum LHN figure is appropriate for the purposes of plan-making, or whether uplifts to address affordable housing needs, economic growth aspirations or unmet housing needs should be accommodated within the housing requirement.

## **2. A Spatial Strategy that Doesn’t Address Housing Needs in Full**

2.16 St Philips welcomes the Council’s acknowledgement of Dudley’s minimum LHN figure but strongly 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.

2.17 Draft Policy DLP1 (3) aims to export the c.1,000 dwelling shortfall to neighbouring authorities. As set out below in more detail, 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 needs.

2.18 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*

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<sup>3</sup> PPG ID: 2a-010

*need*”, the Council has proposed a predominantly brownfield-led spatial strategy with minimal greenfield development. As identified, this results in a shortfall of housing that the Council aims to export to neighbouring authorities.

2.19 St Philips consider that the Council’s proposed spatial strategy is fundamentally flawed and that the DLP should revise its housing requirement in order to meet the Standard Method’s LHN figure, as a minimum, and should consequently seek to plan for a minimum of 11,954 dwellings. This would equate to 664 dwellings per annum (“dpa”) as opposed to 604 dpa. This is because exporting the shortfall identified within the DLP would be found to be unsound by Inspectors during the 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). To this end, the Council must also identify additional land in order to meet this unmet need and St Philips considers the release of Green Belt land to be the most suitable and viable option.

### **3. Addressing Worsening Unmet Housing Needs**

2.20 As noted above, the consequence of the Council’s proposed spatial strategy is that the Council is unable to fully address its minimum LHN-based housing needs for the plan period, resulting in a shortfall of c.1,000 dwellings needing to be addressed within the GBBCHMA. As a result, St Philips strongly contend that 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 and defer this matter to other authorities. An approach that is fundamentally contrary to NPPF paragraphs 35(b & c), as the Duty to Cooperate has not been fulfilled.

2.21 Crucially, the unmet housing needs position arising across the GBBCHMA can only be described as prodigious, and worsening as each authority prepares the next round of Local Plans. By way of example, the GBBCHMA’s overall situation has primarily been set out within the below documents:

- Draft Dudley Local Plan Duty to Co-operate Statement (October 2023)
- 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)

2.22 In this regard, St Philips notes that within the GBBCHMA there is emerging evidence of an acute level of unmet housing needs. Birmingham City Council's 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.

2.23 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 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).

2.24 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.

2.25 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”*

2.26 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)

2.27 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.

2.28 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)

- 2.29 In consideration, the total contribution towards the GBBCHMA unmet need is between 14,410 and 18,420 dwellings. St Philips 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.
- 2.30 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.
- 2.31 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.
- 2.32 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.
- 2.33 In consideration, St Philips 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."*

- 2.34 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."*
- 2.35 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).
- 2.36 Whilst St Philips acknowledges that it is not for Dudley to address the GBBCHMA's unmet needs in full, given the scale of the shortfall arising from the GBBCHMA, St Philips considers that Dudley must play a proportionate role. Moreover, that it is important that Dudley makes it clear in the DLP that it will help address these acute unmet need and should, where possible, be specific in the exact proportion of the unmet need that the upcoming Local Plan can accommodate. This is because, 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 – discussed further below.
- 2.37 Crucially, St Philips strongly contends that areas like Dudley, with a large quantum of suitable land within the Green Belt, have a duty to support housing growth and not only address its own housing need but also the shortfall of housing provision within the HMA. To this end, St Philips recommends that the DLP meets its own housing needs in full and makes a proportionate contribution to addressing the unmet housing needs of the GBBCHMA to ensure it aligns with the test of soundness as per NPPF paragraph 35.
- 2.38 With regards to a 'proportionate contribution', St Philips 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, St Philips therefore encourages Dudley to adopt Lichfield's model in order to sustainably distribute the GBBCHMA's unmet need.

- 2.39 The model calculates the proportion of housing that can be sustainably redistributed towards surrounding authorities based on the functional relationship between the administrative areas.
- 2.40 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.
- 2.41 The objective should be to create an agreed position with regard to the spatial distribution of housing that is justified based on technical evidence and which can be used to underpin the preparation of Local Plans. This would ensure that as and when a spatial distribution methodology is agreed upon, Dudley will have in place a sufficient supply of sites which have been tested through an acceptable model and other evidence base documents.
- 2.42 In essence, 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. St Philips therefore considers that Dudley should assess alternative options for growth, including the release of land from the Green Belt capable of meeting and potentially increasing the housing supply above and beyond the LHN to assist in addressing the unmet housing needs of the GBBCHMA, and in particular the BCAs, as required by the Duty to Cooperate.

#### **4. Duty to Cooperate**

- 2.43 As set out above, there is an acute unmet housing need within the GBBCHMA that needs to be addressed through cooperation and suitable planning. In this regard, the Council has published a Draft Dudley Local Plan Duty to Cooperate Statement (October 2023) (“DtC”), which sets out how it assumes the shortfall will be addressed elsewhere through the local plan reviews of counterpart HMA authorities and the associated contributions.
- 2.44 The Council’s 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 in 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.
- 2.45 Regarding the 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.

- 2.46 Firstly, in the absence of any signed Statements of Common Ground (“SoCG”), St Philips 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 is yet to be confirmed whether Dudley’s shortfall can be met via the identified contributions listed above.
- 2.47 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.
- 2.48 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
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)

- 2.49 However, given the absence of a SoCG, St Philips 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 un-agreed. 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.
- 2.50 The PPG<sup>4</sup> confirms that the preparation of SoCGs with neighbouring authorities will contribute to demonstrating whether the duty has been met:
- “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]*

<sup>4</sup> PPG: 61-031-20190315

- 2.51 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.
- 2.52 Secondly, as the provisional housing contributions from neighbouring authorities address 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).
- 2.53 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 impacts of this option given the unknown location of the exported proportion of growth.”*  
(Emphasis added)
- 2.54 Fundamentally, it is likely that Dudley’s shortfall will remain unaddressed given the BCA’s unmet need, and the lack of a signed SoCG. On this basis, the Council’s proposed approach to dealing with the Duty to Cooperate is contrary to the NPPF. The Council is demonstrably 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 and needing to be addressed through a SoCG. Indeed, this is particularly pertinent, given the Inspector’s recent findings<sup>5</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.
- 2.55 Again, St Philips 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, particularly the other BCAs. Given the acute unmet housing need and the uncertainty associated with the allocated and emerging contributions, the most suitable strategy for maximising housing growth would be through the release of sites within the Green Belt, which St Philips considers to be the most appropriate strategy for Dudley, and the exceptional circumstances required for Green Belt release are discussed in detail below.

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<sup>5</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)



## 5. Draft Sustainability Appraisal

- 2.56 St Philips consider that Draft Policy DLP1, which is underpinned by 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, contrary to paragraph 35(b) of the NPPF.
- 2.57 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.

Source: Draft Sustainability Appraisal of the Draft Dudley Local Plan (October 2023)

- 2.58 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. 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.”*
- 2.59 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. St Philips 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.
- 2.60 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, St Philips does not consider this to be a sound strategy.

- 2.61 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)
- 2.62 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.
- 2.63 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. St Philips 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.
- 2.64 In this respect, the PPG<sup>6</sup> confirms that 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.
- 2.65 When discussing sustainability appraisals, The PPG<sup>7</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>8</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.”*
- 2.66 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 that could potentially provide more positive and less negative sustainability impacts, whilst still meeting the objectives and maximising housing growth.
- 2.67 Option 1 within the SA aims to accommodate Dudley’s housing needs 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. St Philips does not consider that the SA has assessed an option which aims to meet *“the needs of its communities and businesses”* as

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<sup>6</sup> PPG ID: 11-019-20140306

<sup>7</sup> PPG: 11-001-20190722

<sup>8</sup> PPG: 11-018-20140306

stated within the DLP's proposed vision. Dudley instead seeks to defer the identified shortfall of housing as opposed to considering an option which maximises growth within the administrative boundary.

- 2.68 Consequently, the SA as currently prepared is unsound. It has failed to identify and test the sustainability implications of a growth option that 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, contrary to paragraphs 32 and 35(a & b) of the NPPF.

## **6. The Deliverability of Brownfield Land**

- 2.69 The DLP states that c.96.4% of the total housing supply will be on brownfield land and that 3,000 dwellings will be supplied through the development of windfall sites. St Philips raises concerns with the proposed spatial strategy and considers the housing trajectory to be unjustified and unviable.

- 2.70 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.”*

- 2.71 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”*

- 2.72 St Philips 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, St Philips raises concern over the deliverability of brownfield land and Dudley's reliance upon this within Draft Policy DLP1.

- 2.73 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 mean that the cost of developing a site is far greater than a greenfield site. This can deter developers from investing in the redevelopment of specific areas;
- 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; and
- 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.

2.74 The challenges associated with the development of brownfield land 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.”*

2.75 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.”*

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

2.77 In support of the Draft Dudley Local Plan, Aspinall Verdi (“AV”) has completed a viability Assessment (November 2023) (“VA”), which includes brownfield land value analysis.

- 2.78 To assess the assumptions and conclusions presented within the VA, CBRE has produced a Technical Representation to the Local Plan Viability Assessment (Appendix 4). In terms of the brownfield land value analysis, CBRE concludes that the methodology for setting brownfield benchmark land values (“BLV”) set out in the VA does not align with the requirements set out within the Government’s national Planning Practice Guidance for Viability (“PPGV”).
- 2.79 Importantly, paragraph 31 of the NPPF requires that the preparation and review of all Plan policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals.
- 2.80 A detailed review and critique of the Council’s VA is set out in CBRE’s report (Appendix 4). However, in summary, CBRE concluded that the VA’s assumptions of Existing Use Value (“EUV”) are unrealistic, not supported by evidence and are flawed. Consequently, the VA’s assumption on brownfield land release is that it overstates the financial viability and deliverability of this land supply typology rendering the policy unrealistic. The impact will be that policy costs introduced on brownfield development sites will be unduly burdensome, which will either render sites undeliverable or preclude developers from bringing forward developments through the planning system that are in compliance with the adopted Plan.
- 2.81 In contravention of the Government’s guidance set out in PPGV<sup>9</sup>, this ultimately represents a significant risk to the deliverability of the emerging Local Plan, should it place reliance on a brownfield land supply in delivering upon its housing requirements over the Plan period.
- 2.82 When considering the delivery of affordable housing on major development sites, the VA aligns with the requirements of the NPPF (i.e. at least 10% affordable housing - NPPF paragraph 65). However, the VA has also stated that this strategy is only viable within the lower-value areas or areas which are considered to be “unviable” when consideration is given to the following measures:
- *“facilitating development on Authority owned land e.g. with deferred land payments and/or overage;*
  - *direct development of housing by DMBC (for lower profit margins);*
  - *partnering with Registered Providers;*
  - *establishing an Urban Development Company to act as master-developer and de-risk sites;*
  - *delivery of brownfield/regeneration sites (e.g. in the strategic centres) through partnership and delivery funding schemes;*
  - *use of grant (e.g. potentially up to £100,000 per unit) and soft-loans etc.”* (paragraph 24 of the Viability Assessment)
- 2.83 Unless these measures are considered and implemented, the spatial strategy will be one of high-risk and an unviable nature. As stated by paragraph 29 of the VA:

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<sup>9</sup> MHCLG (2019) National Planning Practice Guidance - Viability: Paragraph: 002 Reference ID: 10-002-20190509

*“In order for the Dudley to achieve its housing targets it is likely that grant funding will be required to facilitate development – particularly on Brownfield sites with an industrial legacy to overcome and/or in a low value market area.”*

- 2.84 Furthermore, VA reports on the basis of two 'scenarios', which are referred to as 'worst-case' and 'pragmatic'. The impact of VAs optimistic ('pragmatic') adjustments increases the viability of site typologies, albeit not significantly, with all sites in the Low Value Zone remaining unviable and undeliverable, and the majority of sites in the Medium Value Zone remaining 'marginal', meaning that they still cannot fully comply with DLP policies.
- 2.85 Crucially, it is understood that the VA's recommendations to the Council for setting policies within the DLP are predicated upon the results of the optimistic ('pragmatic') scenario, rather than the worst case (i.e. current market) scenario, which represents a more realistic assessment of current market conditions.
- 2.86 ES 31 and ES 32 of the VA state that under the optimistic ('pragmatic') scenario, sites in the Lower Value zones or brownfield sites would require gap funding via public sector grant awards of £100,000+ per affordable housing unit in order to secure their viable delivery with affordable housing provision in accordance with Policy DLP12. This is also the case for medium-value market areas as paragraph ES 32 of the VA confirms that grant awards of £40,000 - £60,000 per affordable unit would be required to secure the viable delivery.
- 2.87 As a result, it is therefore considered that a large number of the sites identified within the Council's supply are in fact not viable even with 0% affordable housing unless the measures discussed are implemented. In essence, this means that the majority of the brownfield sites listed within Dudley's housing supply are in fact unviable and undeliverable. The actual deliverable supply of brownfield land is lower than what has been estimated, increasing the shortfall of housing sites within Dudley. As such, St Philips considered that Draft Policy DLP1 is based on inaccurate evidence contrary to paragraph 31 of the NPPF.
- 2.88 St Philips 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 the 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

require adaptation for housing purposes. This can often deter developers from investing in 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 LHN.

2.89 St Philips 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, St Philips considers the reliance upon windfall development within draft Policy DLP1 to be unjustified.

2.90 St Philips considers that the actual housing supply is likely to be lower than 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. St Philips therefore considers the housing deliverability trajectory to be flawed and is in fact high-risk with a limited potential deliverability over the coming years. The above further reinforces St Philips view that the spatial strategy outlined within Draft Policy DLP1 is unsound due to the deliverability of brownfield land and windfall sites.

## 7. Exceptional Circumstances and Green Belt Release

2.91 When taking the above together, there is a clear and cogent argument for the Council to release Green Belt land to not just meet their own housing needs in full, but also make a proportionate contribution towards addressing the unmet housing needs of the wider GBBCHMA – and particularly the BCAs.

2.92 In this regard, it is noted that 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.”*

2.93 No further explanation is provided in regard to why this is the preferred spatial strategy. In this context, the NPPF is clear on the weight attached to the 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).

2.94 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 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.”*

2.95 St Philips 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 St Philips 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.

2.96 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. St Philips 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. As set out in the CBRE’s report ((Appendix 4), this is not the case in Dudley.

2.97 However, in respect of the sequential tests set out above, there is insufficient brownfield land to meet 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.

2.98 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 minimum LHN, Dudley has proposed to export a shortfall of 1,078 dwellings to the neighbouring authorities within the GBBCHMA. Notwithstanding the fact that there is no agreement or SoCG with neighbouring local authorities to meet such needs. In any event, it is clear that the Council is seeking to defer rather than meaningfully address their housing needs.

2.99 However, as discussed above, there is a high degree of uncertainty as to whether the Council’s shortfall (1,078 dwellings) could actually be accommodated by neighbouring authorities in the GBBCHMA. Indeed, given the fact that 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.”*

2.100 As previously discussed, St Philips considers the Council should consider whether the minimum LHN figure is appropriate or whether uplifts should be applied. Moreover, that



the Council should meet its needs in full, and make a proportionate contribution towards addressing the unmet housing needs of the GBBCHMA. When coupled with the fact that that the housing supply (10,876 dwellings) is inaccurate as the deliverability and viability of brownfield land have not been appropriately assessed, resulting in the housing land supply being predicated on a high-risk assumption that brownfield land will deliver, it is likely that land within the Green Belt will be required to address these factors through a revised spatial strategy.

2.101 Indeed, 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.”*

2.102 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”*.

2.103 As such, 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 needs constitute a matter for consideration in determining whether exceptional circumstances exist.

2.104 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, St Philips considers that the acuteness of the unmet housing need can, and in this instance, should, constitute exceptional circumstances, as established in the Calverton case.

2.105 Moreover, the Council’s attention should be drawn to the significant issues raised by the Inspector in the examination of 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 their initial thoughts relating to the soundness of the plan in the context of the Green Belt Review findings:

*“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*

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

*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 likely to reveal opportunities as well as localised constraints, both of which might reasonably be considered further.” (page 1) [Emphasis added]*

2.106 Following the 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 their ‘Supplementary Conclusions and Advice’ note in June 2021, setting out:

*“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.*

*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.”*

2.107 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 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, as the exceptional circumstances presented by the unmet housing needs of the GBBCHMA would justify this approach.

2.108 Ultimately, 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 GBBCHMA, St Philips 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. 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)*

- 2.109 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. 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.

## **Non-Strategic Policies**

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

- 2.110 St Philips 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.
- 2.111 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)

- 2.112 This indicates that an application-led viability assessment will be required on a site-by-site basis. 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)*

- 2.113 As such, the draft Local Plan proposing for a viability assessment to be undertaken for all applications 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.
- 2.114 St Philips therefore objects to draft Policy DLP12 (Delivering Affordable, Wheelchair Accessible and Self-Build/Custom-Build Housing) and finds 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.
- 2.115 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.

## **Draft Dudley Local Plan Viability Assessment**

- 2.116 As noted above, CBRE have reviewed the Council’s VA; however, a summary of CBRE’s review of the VA is provided as follows.

### **Brownfield Land Value Analysis**

#### **Absence of Transparency**

- 2.117 When identifying sites for assessment, the VA has not disclosed the parameters of their search nor set out a schedule of comparable evidence, which fails the necessary requirement for transparency.
- 2.118 AV has not cited any tangible comparable evidence and does not provide a formal analysis of evidence to detail how the market comparable evidence (or information drawn from previous documents) has been translated into the BLVs adopted. This falls short of the requirements set out within PPGV<sup>11</sup>.
- 2.119 Given this lack of transparency, it is unclear how AV has arrived at the Existing Use Values (‘EUVs’) stated and applied when calculating BLV.

#### **CBRE Market Evidential Cross-check**

- 2.120 CBRE has undertaken independent research of brownfield land values in the Council’s area. This has included both the asking prices of brownfield sites available on the market in September 2023 and land transactional evidence.
- 2.121 There is an apparent scarcity of brownfield land entering the market, and land for industrial uses such as storage is in demand across the West Midlands.

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<sup>11</sup> MHCLG (2019) National Planning Practice Guidance - Viability: Paragraph: 015 Reference ID: 10-015-20190509

- 2.122 As such, secondary industrial and storage land is being marketed and transacted at considerably higher prices than Aspinall Verdi's EUV and BLV assumptions. CBRE has identified no sites on the market below £250,000 per gross acre.
- 2.123 CBRE's analysis concludes that existing low-grade and secondary active industrial sites will generate land values in excess of £500,000 per gross acre, without a premium applied for residential development potential.
- 2.124 By comparison, CBRE is aware that in the wider West Midlands market, secondary industrial land trades for in excess of £500,000 per gross acre and up to £1 million per gross acre for sites of circa 1 to 3 acres.
- 2.125 Ultimately, AV's adopted 'starting point' for setting BLVs, predicated on EUVs at £250,000 to £300,000 per gross acre is demonstrably too low and represents an unrealistic basis for the preparation of viability assessment evidence, which if relied upon could pose a risk to the deliverability of the DLP.

### **Flawed Correlation of Brownfield EUVs with Residential Value Zones**

- 2.126 Aspinall Verdi's methodology applies lower brownfield EUVs (£250,000/gross acre) in designated 'low' and 'medium' residential value zones but then applies a higher brownfield EUV in the designated 'high' residential value zone.
- 2.127 Aspinall Verdi has not put any evidence forward to justify applying a lower EUV in a 'low' and 'medium' value zone, than in a 'high' residential value zone. Put simply, there is no evidential correlation between the residential value zones and the EUV of brownfield land.
- 2.128 CBRE advocates that, in reality, 'higher' value commercial brownfield locations are typically in the 'lower' value residential zones. Aspinall Verdi's methodology is flawed and needs to be addressed.

### **Net to Gross Efficiency of Brownfield Sites**

- 2.129 Aspinall Verdi has assumed a net-to-gross efficiency of 100% for brownfield sites to reflect the net developable area available for residential redevelopment.
- 2.130 However, this assumption is not substantiated by Aspinall Verdi and is without evidential underwrite. CBRE contends this is an unrealistic proposition.
- 2.131 Based on recent planning permissions, CBRE concludes that a more realistic gross-to-net site efficiency on brownfield sites redeveloped for residential use would be c.75%.
- 2.132 Additionally, with the introduction of the mandatory 10% Biodiversity Net Gain requirement for sites seeking planning permission from January 2024, it is expected that brownfield site efficiencies will decrease further.

### **Uplift Multiplier**

- 2.133 Aspinall Verdi adopts an uplift multiplier ('landowner premium') of between 5-10% over perceived EUVs.

- 2.134 Firstly, CBRE states that the multipliers adopted represent the lowest CBRE has seen proposed nationally within any viability assessment prepared for the purpose of informing Local Plan policies.
- 2.135 Secondly, this multiplier conflicts with multipliers typically advocated and supported at the planning application stage and via planning appeals. CBRE states that the typical adopted range is between 10% and 40%, with the application of a 20% premium in excess of brownfield site EUVs representing the industry 'norm'.
- 2.136 CBRE have not identified any evidence justifying the uplift multipliers adopted by Aspinall Verdi, or any market sense-check.
- 2.137 Therefore, it is requested that the methodology and evidence to justify the uplift multipliers is provided by Aspinall Verdi for further comment.

### **Market Sense Check - Planning Policy Compliant Residential Developments**

- 2.138 CBRE has undertaken a search of recent planning permissions in the borough to determine the deliverability of 'Policy Compliant' residential developments on brownfield sites (i.e., delivering the target 25% affordable housing provision on all sites of 15 dwellings or more and providing other required planning obligations) to ascertain if this represents a commercially realistic proposition in recent years.
- 2.139 Officer Reports and Planning Committee records confirm that the majority of brownfield residential developments have faced viability challenges. In fact, grant funding has been awarded and utilised in some instances to deliver a greater proportion of affordable housing units and support deliverability on brownfield land.
- 2.140 The Officer Report to the Planning Committee for the recently consented residential development of 72no. units on the former quarry and tip at Bourne (Ref: P20/1306) confirm that a viability assessment was prepared and was independently verified. It was determined that no affordable housing provision or any other Section 106 contributions would be provided.
- 2.141 CBRE has been unable to further investigate site-specific viability challenges on other sites within Dudley as, contrary to the NPPF, Financial Viability Assessments and independent reviews have not been published by DMBC online.
- 2.142 CBRE requests that this information is disclosed and is made accessible within the public domain if Aspinall Verdi is to place any reliance on it.
- 2.143 AV reports on the basis of two 'scenarios', which are referred to as 'worst-case' and 'pragmatic'. CBRE consider AV's terminology misleading, and these 'scenarios' should be retitled as 'baseline' and 'optimistic' scenarios respectively. Within the optimistic ('pragmatic') scenario, AV has:
- a reduced construction costs to a lower range across all site typologies; and
  - b reduced the developer's target profit margin. CBRE notes this now falls below margins accepted via Appeal Decisions determined during 2023 since which time market conditions have continued to deteriorate.

- 2.144 The impact of AV's optimistic ('pragmatic') adjustments increases the viability of site typologies, albeit not significantly, with all sites in the Low Value Zone remaining unviable and undeliverable, and the majority of sites in the Medium Value Zone remaining 'marginal', meaning that they still cannot fully comply with DLP policies.
- 2.145 CBRE understands that AV's recommendations to Dudley for setting policies within the DLP are predicated upon the results of the optimistic ('pragmatic') scenario, rather than the baseline (i.e., current market) scenario, which represents a more realistic assessment of current market conditions.
- 2.146 The impact will be that policy costs introduced on brownfield development sites will be unduly burdensome, which will either render sites undeliverable or preclude developers from bringing forward developments through the planning system that are in compliance with the adopted Plan.
- 2.147 In ES 23 of the VA, AV states that the viability threshold of sites within the designated 'Lower Value' zones is such that they cannot viably provide 10% affordable housing, based on the evidence in the VA. Despite this, it is recommended to the Council that the affordable housing target of 10% is applied in the Lower Value zones (or others where sites are unviable), with Dudley reliant on NPPF paragraph 65.
- 2.148 ES 29 of the VA proceeds by stating that:  
*"In order for the Dudley to achieve its housing targets it is likely that grant funding will be required to facilitate development - particularly on Brownfield sites with an industrial legacy to overcome and/or in a low value market area."*
- 2.149 This is expanded upon further in ES 31 and ES 32 whereby AV recommend that the results of the viability testing under the optimistic ('pragmatic') scenario demonstrate sites in the Lower Value zones or brownfield sites would require gap funding via public sector grant awards of £100,000+ per affordable housing unit in order to secure their viable delivery with affordable housing provision in accordance with Policy DLP12.
- 2.150 This is also the case in Medium Value market areas, where sites are also demonstrably unviable on a policy-compliant basis. Paragraph ES 32 of the VA confirms that grant awards of £40,000 - £60,000 per affordable unit would be required to secure the viable delivery of sites with affordable housing provision in accordance with Policy DLP12.
- 2.151 It is therefore considered that the preparation of policies in the DLP utilizing AV's evidence base presents a high risk of failing the test of soundness, as per NPPF paragraph 35.
- 2.152 Having conducted a detailed review of the VA, CBRE has identified a series of technical deficiencies in the adopted methodology and inputs as discussed in Appendix 4. In addition, several requests for clarification from AV are made, where evidenced justification is lacking.

### **Policy Costs Applied within the VA**

- 2.153 CBRE considers that there are a series of flaws in the costs of DLP policies applied to the viability assessment by AV. These serve to understate the development costs that will be incurred by development site typologies within the borough in the current market. This poses a material risk that the results overstate the financial viability of sites.

- 2.154 CBRE has identified flaws within the policy costs for the following draft Local Plan policies:
- Draft Policy DLP32 - Nature Recovery Network and Biodiversity Net Gain
  - Draft Policy DLP12 - Delivering Affordable, Wheelchair Accessible and Self-Build/ Custom-Build Housing
  - Draft Policy DLP16 - Education Facilities
  - Policy DLP85 - Contaminated Land
  - Policy DLP42 - Energy Infrastructure
- 2.155 CBRE conclude that the costs for draft Policies DLP32 have been underestimated and recommends that AV should adjust the costs for inflation. This would result in an increase in the costs to present-day rates.
- 2.156 Regarding the cost associated with draft Policy DLP16 and DLP 85, it is not explained how this figure is calculated for the purpose of testing or whether it represents an up-to-date assessment of costs.
- 2.157 In terms of draft Policy DLP42, CBRE proposes that the VA should be updated to test a minimum rate of £10,000/unit, on the assumption that a cost towards the lower end of the spectrum may be achievable via technological advancement and the securing of economies of scale by volume housebuilders. However, CBRE is mindful that small to medium enterprises and regional-scale developers are less likely to be able to secure such economies.
- 2.158 CBRE notes that the VA makes no allowance for off-site highway reinforcement works and instead points to a sensitivity analysis for reliance. CBRE expects that most sites of modest scale and above will create traffic impacts that will necessitate off-site works to mitigate. As a result, it is expected that the exclusion of any allowance in the VA will contribute to an unduly optimistic position on viability outcomes.



## **3.0 Land at Foxcote Farm, Stourbridge**

- 3.1 As set out in Section 1.0 of these representations, St Philips is promoting land at Foxcote Farm, Stourbridge for landscape-led residential development. St Philips 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. They work exceptionally closely with their consultancy team, delivering well-thought-out strategies and layouts which are rigorously scrutinised in order to achieve high-quality results.
- 3.2 The objectives and Vision set out within the DLP align with St Philips' own ambitions to invest in and deliver a new development of the highest quality in this location. The Vision Document attached to Appendix 2 of these representations demonstrates St Philips' 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, accessibility and active travel.
- 3.3 The site, encompassing an area of 43.28ha, is currently used as agricultural land and is accessed via Oldnall Road (Appendix 1 for a Site Location Plan). The site is located within the Green Belt and adjoins the built-up area. The site is bound to the west by a public footpath and residential development along Grove Road, with Wynall Lane further afield. To the east, the site is bound by Cradley Town Football and Social Club and greenfield land. To the south, the site is bordered by Wynall Lane and Foxcote Lane, with greenfield land beyond. The northern boundary of the site is bound Oldnall Road, as well as a mixture of woodland and residential land.
- 3.4 St Philips considers that Land at Foxcote Farm 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 5-10 years of the Plan Period.
- 3.5 Whilst the vision for the new Local Plan emphasises growth in homes and jobs and building a strong and resilient local economy, 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 plan period is likely to be lower than 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 St Philips considers that the land at Foxcote Farm 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.
- 3.7 The overall site area is 43.28ha, of which 23.86 hectares are currently being proposed for residential development, equating to approximately 800 new homes, alongside the provision of land to accommodate a new primary school and a new local centre to serve

future residents daily needs. The site also provides the opportunity to improve accessibility in this part of Stourbridge in terms of public transport and pedestrian and cycle paths, areas of green open space with the potential for sports pitches and extensive blue and green infrastructure networks and improvements to the environment, and ecological enhancements in order to achieve a minimum 10% net-gain in biodiversity. Suitable planting will be provided creating an environmental buffer along the eastern boundary of the site.

- 3.8 The proposed development at Foxcote Farm will be an inclusive place that meets the needs of a broad range of future residents, contributing towards meeting the housing needs of Dudley over the next plan period. The proposals align with the ‘20-minute neighbourhood’ principle and enhance the accessibility of sustainable modes of transport, improving pedestrian and cycle connectivity and encouraging active travel. The site presents opportunities to connect to existing infrastructure providing connections to local primary and secondary schools, healthcare and the essential facilities required for a high quality of life.
- 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 a relatively unconstrained site, which aligns with the Vision and objectives of the new Local Plan.

## **Site Deliverability**

- 3.10 A site Deliverability Statement (“DS”) (Appendix 3) has been prepared by CBRE in support of these representations with the aim of promoting the site for allocation within the Dudley Local Plan Review.
- 3.11 The DS assesses, and reports upon, the financial viability of the proposed strategic residential-led development site at land at Foxcote Farm. The DS tests the financial viability of the proposed development at the site, taking into account the emerging policy requirements set by the Council within the Draft Dudley Local Plan, as well as national planning policy guidance.
- 3.12 The policy-compliant viability appraisal incorporates the full 20% provision of affordable housing on-site, along with accessible housing, at the tenure mix sought by the Council, plus a compliant package of S106 contributions and substantive CIL liability that would meet the policy requirements of the draft Local Plan.
- 3.13 The site would also deliver new sustainable housing growth and would align with the policy aspirations under draft Policy DLP10 (Delivering Sustainable Housing Growth) and would provide development-related infrastructure in accordance with draft Policy DLP6 (Infrastructure Provision), which would include a new primary school in accordance with Policy DLP16 (Education Facilities).
- 3.14 The Vision Document demonstrates how the site can deliver new on-site open space, that accommodates a minimum of 10% Bio-diversity Net Gain in accordance with draft Policy DLP32, which secures the protection of important nature conservation features in accordance with draft Policy DLP33 and DLP34.

- 3.15 Overall, the delivery of development at Foxcote Farm would assist in achieving the Council's aspiration in respect of creating development that can deliver an environment that will support healthy communities with access to local facilities and open space.
- 3.16 The delivery of the proposed development of Foxcote Farm on a basis in full compliance with the draft Local Plan, has been assessed as fully viable and deliverable for the purpose of the allocation within the Council's draft Local Plan.