

11th January 2024

Sent via email: planning.policy@dudley.gov.uk

Dear Dudley Planning Policy Team,

Re: Dudley Local Plan – Consultation on the Draft Local Plan (Regulation 18) December 2023

Thank you for consulting Birmingham City Council on your Draft Local Plan (Regulation 18) and allowing for an extension of time in responding due to the delayed publication of the revised National Planning Policy Framework (NPPF) which was published on 19th December 2023. We therefore raise the following detailed comments in response to specific strategic and cross-boundary issues arising from the consultation.

The City Council has had a strong working relationship with the Black Country Authorities, including Dudley, regarding planning matters for many years, particularly as the two authorities share a joint boundary. In addition, the two local planning authorities have also worked alongside each other, and the other local authorities which make up the Greater Birmingham and Black Country Housing Market Area (HMA), to identify ways in which housing and employment land shortfalls can be met across the wider HMA since such shortfalls emerged (following the adoption of the Birmingham Development Plan in 2017).

Birmingham is currently progressing its own Local Plan with consultation on the Preferred Options document due to be carried out during Summer 2024. Consultation on the Issues and Options for the Birmingham Local Plan identified a further significant potential housing shortfall (78,415 shortfall) and a significant employment land shortfall (73.64 hectares shortfall). This is likely to continue to be reflected when consultation on the Preferred Options is carried out and includes 71 hectares of employment land as well as approximately 5,500 dwellings on land still to be developed, both of which were taken out of the Green Belt when the Birmingham Development Plan was adopted.

Relationship of the Dudley Local Plan to previous work carried out for the Black Country Plan

The Dudley Local Plan (DLP) is described in paragraphs 3.24-3.27 as a ‘hybrid local plan’ acknowledging the issues and the responses made during the draft Black Country Plan (BCP) which Dudley were preparing alongside the other Black Country Authorities (which officially ceased in October 2022). It also states that the Draft DLP will respond to the issues raised during the public consultation on the draft BCP held in 2021 which ‘confirmed a number of issues and challenges in Dudley that should be addressed by the new DLP.’ It also goes on to state that the technical evidence base produced to inform the Plan has identified some of the key issues to be considered and addressed as part of the plan making process. This enables the DLP to be prepared by utilising previous evidence and consultations and to proceed to the Draft Local Plan stage more quickly which is currently subject to consultation. Birmingham City Council wrote to the Black Country Authorities on 4 November 2021 following the consultation on the draft Black Country Plan. Our response acknowledged that significant housing and employment land shortfalls were emerging from the evidence gathered. However, as part of the potential future supply, the City Council appreciated that the BCP identified sites to be released from the Green

Place, Prosperity & Sustainability Directorate
Birmingham City Council
Council House
Victoria Square
Birmingham
B1 1BB

Belt to help meet some of the housing and employment needs amounting to 7,720 homes and 48 hectares of employment land including sites within Dudley Borough which would help alleviate these shortfalls across the HMA in line with Duty to Cooperate requirements.

Dudley Borough Spatial Strategy - Housing and employment land position

Policy DLP1 of the DLP sets out the land requirements to meet housing need and employment land needs for the plan period. The housing need for Dudley, using the Government's Standard Methodology, specifies that land for 11,954 homes is required by 2040/41. The Policy sets out the context of how the development choices for Dudley have been made, primarily seeking to deliver development within the Borough's Centres and Regeneration Corridors. These choices mean that land for only 10,876 homes can be identified, leaving a shortfall and unmet housing need of 1,078 homes.

The employment land needs for Dudley have been calculated to be 72 hectares (or 98 hectares if you include the need to replace sites lost to residential uses as part of the housing supply). However, only 25 hectares of land for employment have been identified and so, there is a shortfall of 47 hectares within Dudley (73 hectares shortfall if you include the need to replace sites lost to residential uses as part of the housing supply).

Paragraphs 5.10 and 5.11 set out the spatial strategy choices which seek to protect green spaces within the Borough, the green belt and the 'wedges' of open land but highlights that this approach has led to a shortage of deliverable sites identified for housing and employment and aims to address these outstanding development needs via the Duty to Cooperate.

Duty to Cooperate

Through evidence provided for its new Local Plan, Birmingham City Council has identified an initial estimated significant shortfall of 78,415 homes and a shortfall of 73.64 hectares of employment land across the city for the proposed Plan period of 2022-2042. As stated previously, the figures include land for approximately 5,500 dwellings at Langley and 71 hectares of employment land at Peddimore which were taken out of the Green Belt when the Birmingham Development Plan was adopted.

Birmingham Council still have further work to do to identify further potential sources of housing land supply and will ensure that opportunities within its administrative area will be truly maximised prior to any shortfall being exported to other areas. However, it is likely that there will still be a significant housing and employment land shortfalls in Birmingham to add to that being experienced in the rest of the conurbation.

Sandwell Council too has identified a shortfall of approximately 18,606 dwellings and a 189-hectare shortfall of employment land and, because Sandwell is highly constrained within the West Midlands Conurbation, this has further added to the considerable land pressures affecting the capacity of the Birmingham and Black Country Housing Market Area and the West Midlands Functional Economic Market Area to meet their land requirements.

It is therefore important that Dudley continues to strive to accommodate as much housing and employment as possible to meet its own needs by making effective use of land and maximising densities. However, this should also include opportunities to carry out development on the edge of the conurbation, including the release of land from the green belt as happened in Birmingham, to promote sustainable patterns of growth in line with paragraph 147 of the NPPF. This has made a significant contribution to the housing and employment land shortfalls within Birmingham through the Langley Sustainable Urban Extension and the Peddimore employment site. Other Councils within the Birmingham and Black Country HMA have also released Green Belt land in order to contribute to meeting their own housing and employment needs as well as contributing to the shortfall of the HMA. These include Solihull MBC, Redditch BC, North Warwickshire BC, Stratford-on-Avon DC and Tamworth BC.

The publication of the Draft Black Country Plan in 2021, as well as the evidence provided in support, put forward sustainable housing development sites on land currently in the Green Belt in Dudley and

elsewhere in the Black Country. This would have provided much needed housing growth to alleviate the issues highlighted above as part of sustainable patterns of growth on the edge of the conurbation in the same way that green belt land has been released in other parts of the HMA including Birmingham. It is therefore disappointing that these sites have now been removed as the DLP has evolved from the BCP Preferred Options, particularly if they have been assessed as being weak or having no contribution to the purposes of the green belt in the Green Belt Assessment (carried out by LUC as part of the evidence base). The exclusion of these sites has meant that opportunities to provide additional development to alleviate housing and employment land shortfalls in Dudley, as well as the wider West Midlands conurbation and its HMA through the Duty to Cooperate, have been lost. The consequence is that housing and employment opportunities will, either have to be exported to other parts of the HMA further away from where the housing need is derived or lost altogether. The resulting under-supply also places additional pressures on the housing supply in other authorities within the HMA, many of which have unmet housing and employment needs themselves. This also makes it difficult for Dudley to demonstrate and justify that it has maximised its supply before seeking to export any unmet need elsewhere. This is particularly true when dealing with local planning authorities which have previously released land from the green belt to fulfil their own needs and, in some cases, contributed towards unmet needs elsewhere as part of their Duty to Cooperate.

National Planning Policy Framework conformity and soundness

The revised NPPF (December 2023) states in paragraph 145 that, one established, there is no requirement for Green Belt boundaries to be reviewed or changed when plans are being prepared or updated. However, green belt boundaries can be reviewed or altered where exceptional circumstances exist as also set out within the same paragraph. The high levels of unmet need being experienced across the Conurbation and the wider Birmingham and Black Country HMA could be considered as exceptional enough to warrant a Green Belt boundary alteration as has previously been carried out in Birmingham and elsewhere. This is coupled with the 'soundness' requirements set out in paragraph 35 of the NPPF which requires plans to be positively prepared by "...providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs...". Together, this could therefore raise questions as to whether the approach being taken in the DLP meets NPPF soundness requirements given that, previously, the draft BCP demonstrated that it is practical for Dudley to meet its own needs as well as accommodate some unmet housing need from neighbouring authorities.

Summary

The City Council appreciates the development pressures that Dudley, along with all local authorities across the West Midlands, is experiencing in terms of mounting housing and employment land requirements. In the DLP, Dudley has taken steps to maximise its brownfield development potential which is supported. However, many authorities, including Birmingham, have made difficult decisions in order to maximise development opportunities further such as removing land from the Green Belt as a last resort when all other options have been exhausted. It is therefore disappointing that, having previously proposed to remove some sites from the green belt in the BCP Preferred Options consultation to contribute to the unmet needs within Dudley and the HMA, Dudley Council are now proposing not to replicate the approach taken elsewhere and have removed these sites from consideration. The consequence is that housing and employment opportunities will, either have to be exported to other parts of the HMA further away from where the housing need is derived or lost altogether.

The high levels of potential unmet housing and employment land needs being experienced across the conurbation, (currently estimated to be just under 100,000 dwellings and around 335 hectares of employment land just for Birmingham, Dudley and Sandwell combined), could be considered as an exceptional circumstance to justify taking sites out of the Green Belt, as done elsewhere, in line with paragraphs 145 and 146 of the revised NPPF. Reconsideration of the additional site allocations originally proposed in the BCP Preferred Options would be in line with the approach taken by other local authorities in the West Midlands in adopted or proposed local plan documents and would assist in removing any doubts surrounding the soundness of the DLP in being positively prepared and in accordance with the Duty to Cooperate. Failing that, further work may be necessary to justify the current

proposed approach being taken in the DLP as a departure from the position taken when site allocations and the policy approach within Dudley were last out to consultation as part of the Draft BCP.

We look forward to continued engagement with you through Duty to Cooperate arrangements as both Dudley and Birmingham Local Plans progress towards submission and adoption. We will be happy to have separate discussions with Dudley Officers on the issues raised and ways forward on reaching an agreed Statement of Common Ground prior to submission. Please therefore, do not hesitate to contact us at planningstrategy@birmingham.gov.uk.

Yours sincerely

