

# The Planning Bureau Limited

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20th December 2023

Dear Sir / Madam

## **RESPONSE ON BEHALF OF MCCARTHY STONE TO THE DRAFT DUDLEY LOCAL PLAN PART ONE SPATIAL STRATEGY AND POLICIES REGULATION 18 CONSULTATION, OCTOBER 2023**

Thank you for the opportunity to comment on the draft Dudley Local Plan Part One Spatial Strategy and Policies consultation. McCarthy Stone is the leading provider of specialist housing for older people. The following representation provides details as to the approach the Council should take towards meeting the specialist housing needs of older people and sets out recommendations for the Council to consider when setting policies to ensure the needs of older people are fully considered within the emerging Local Plan.

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

#### **Affordable housing**

Policy DLP12 seeks 10% affordable housing on sites in lower value zones and brownfield sites in medium value zones, 20% affordable housing on greenfield sites in medium value zones and 30% affordable housing in higher value zones. Flexibility is provided in the policy in terms of stating '*where financially viable*'.

We would remind the Council of the increased emphasis on Local Plan viability testing in Paragraph 58 of the NPPF and that the PPG states that "*The role for viability assessment is primarily at the plan making stage. Viability assessment should not compromise sustainable development but should be used to ensure that policies are realistic, and that the total cumulative cost of all relevant policies will not undermine deliverability of the plan*" (Paragraph: 002 Reference ID: 10-002-20190509). The evidence underpinning the Council's planning obligations and building requirements should therefore be robust. We note that the Council has published the Dudley Local Plan Viability Assessment, Aspinall Verdi, November 2023 (Viability Assessment) to support the draft Local Plan, however this has not tested specialist housing for older people as its own typology.

The viability of specialist housing for older people is more finely balanced than 'general needs' housing and we are strongly of the view that these housing typologies should be robustly assessed in any update to the Viability Assessment. This would accord with the typology approach detailed in Paragraph: 004 (Reference ID: 10-004-20190509) of the PPG which states that. *A typology approach is a process plan makers can follow to ensure that they are creating realistic, deliverable policies based on the type of sites that are likely to come forward for development over the plan period.* If this is not done, the delivery of much needed specialised housing for older people may be significantly delayed

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with protracted discussion about other policy areas such as affordable housing policy requirements which are wholly inappropriate when considering such housing need.

We would direct the Council towards the Retirement Housing Consortium paper entitled 'A briefing note on viability prepared for Retirement Housing Group by Three Dragons, May 2013 (updated February 2013 ('RHG Briefing Note') available from <https://retirementhousinggroup.com/rhg/wp-content/uploads/2017/01/CIL-viability-appraisal-issues-RHG-February-2016.pdf>. The RHG Briefing Note establishes how sheltered housing and extra care development differs from mainstream housing and looks at the key variables and assumptions that can affect the viability of specialist housing for older people. These key variables include unit size, unit numbers and GIA, non-saleable communal space, empty property costs, external build cost, sales values, build costs, marketing costs and sales periods. As such, due to the differences and variables that older persons housing schemes have, such schemes are generally less viable than mainstream housing.

In presenting this submission, it is relevant to note that McCarthy Stone which has traditionally developed retirement housing schemes for the middle market where it has proved more viable to do so, is, through its new "Evolve" housing concept better able to develop in lower value areas, where the market and planning conditions are right, thereby addressing a housing need for older people who have until now, not had this beneficial housing option available to them. The first of these schemes is now underway at Failsworth, Oldham and therefore older persons schemes should not just be assumed to be delivered in 'higher value' areas.

### **Recommendation**

The Council must therefore ensure that an up-to-date Viability Assessment is undertaken to inform the future versions of the plan. The new Viability Assessment must include a number of typologies that includes older person's housing and if older person's housing is found to be not viable an exemption must be provided within the plan in order to prevent protracted conversations at the application stage over affordable housing provision and delaying the provision of much needed older persons housing.

### **Review Mechanism**

Point 9 of policy DLP12 considers Financial Viability Assessments be submitted alongside planning applications to support the affordable housing viability position and confirms that '*Flexible arrangements will be sought through planning agreements, wherever possible, to allow for changing market conditions in future years*'.

This in effect introduces a review mechanism. To burden development which has already been found to be not viable at the Local Plan stage or would be if the typology of older persons housing was tested for viability, with a review mechanism is wholly inappropriate and inflexible. This effectively means that as currently written, all specialist housing to meet the needs of older people will have to go through the delay and uncertainty of a review mechanism, even though it is likely to be unviable if it were tested within the viability study. This will impact on the number of sites coming forward for much needed older persons housing.

Housing for older people, being specialist in nature as defined by Paragraph: 010 Reference ID: 63-010-20190626 of the PPG on Housing for Older and Disabled people, is often delivered on small brownfield sites separate to housing allocations or other development sites of around 0.5 hectares. Schemes tend to be high-density flatted developments located near town centres that have around 35 to 40 units. They tend to be delivered as a single phase. Sheltered housing and extra care development differ from mainstream housing and there are a number of key variables that affect

viability. These include unit size, unit numbers and GIA, non-saleable communal space, empty property costs, external build cost, sales values, build costs, marketing costs and sales periods.

Once planning permission for specialist housing for older people is granted, given the small size and single phase of schemes, the objective is to commence the build and complete all units within one single phase. The build period usually takes around 18 months. Older person's housing, given its specialist nature and being built in one phase, then has a much longer sales period often up to 36 Months with 50% of the scheme often not being sold until year 2 of sales, despite being completed some years earlier. Given the completion of the whole scheme on the first flat occupation, empty property costs are then charged on properties that have not yet sold, this includes costs such as council tax and service charges.

For a large or multi-phase development which will be delivered over a long period it makes sense to check whether the scheme's viability has changed with market movements. However, for a small single phased site the Inspectorate have repeatedly noted that review mechanisms are unnecessary. For example, under Appeal decision reference APP/C4235/W/120/3256972 dated 1<sup>st</sup> April 2021, the Inspector noted in paragraph 17 that *'as the development would almost certainly be completed in a single phase with an estimated build time of 12-18 months, it is not the sort of large multi-phased scheme where stronger arguments for a review/clawback mechanism may otherwise exist'*.

In order to introduce such a mechanism, there must be a clear and specific policy basis for any review mechanism being imposed in line with PPG Viability para 009 Reference ID: 10-009-20190509. of the government guidance that states the following:

*'Plans should set out circumstances where review mechanisms may be appropriate, as well as clear process and terms of engagement regarding how and when viability will be reassessed over the lifetime of the development to ensure policy compliance and optimal public benefits through economic cycles. Policy compliant means development which fully complies with up to date plan policies. A decision maker can give appropriate weight to emerging policies.'*

This should include the consideration of variables such as trigger points, costs, land values, how surplus is split and other definitions. A significant number of recent Planning Appeals and case law have reinforced this point. The requirement for a review mechanism is not supported by any justification, evidence, or process where specific inputs to be included within any review mechanism, could be considered in public examination. For example, certain exemptions should be introduced such as to smaller sites, that are built in one phase. The Planning Inspectorate have repeatedly noted that review mechanism for smaller sites, and single-phase developments are unnecessary so this must also be a consideration, whilst for a large multi-phased development that maybe delivered over a long period it would make sense to determine if viability has changed with market movements over time.

**Recommendation:**

To introduce a review mechanism, there must be a clear and specific policy basis and justification for any such mechanism to be brought in. A significant number of recent Planning Appeals and case law have reinforced this point. A review mechanism and any detail that will form part of it needs to be considered fully and assessed through the Local Plan process. The plan should therefore provide exemption from the review mechanism for smaller single phased developments.

Point 9 **DLP12** should therefore be amended as follows:

'9. 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. **For multiple phased schemes flexible** arrangements will be sought through planning agreements, wherever possible, to allow for changing market conditions in future years’.

### **Policy DLP13 Supported Accommodation**

Whilst we support the thrust of Policy DLP13 we feel that some small amendments should be made to the policy to make it clearer. Paragraph 8.26 makes it clear that policy DLP13 aims to meet a range of housing needs including meeting the housing needs of older people. The policy confirms that *‘the Council will support the provision of accommodation for people with specific needs, where a need has been identified. Proposals providing accommodation for people with specific needs, including care homes and extra care facilities will be considered in relation to the following criteria.....’*. The Dudley draft Local Plan is supported by ‘The Black Country Housing Market Assessment – March 2021 (HMA) and in the appendices splits out the outcome of the study to the various local authority areas. Appendix 7 considers housing need in Dudley and table 7.2a (page 178) identifies the ‘Projected requirement for specialist accommodation for older person households in Dudley over the Plan Period’. This identifies that 548 additional sheltered housing units are needed to 2039 and 415 additional extra care units, a total of 963 additional older person units.

Developers of older person’s housing schemes should not be required to demonstrate need given the significant need identified and given the need for sheltered housing is greater than extra care reference specifically to extra care should be removed.

### **Recommendation**

Amend policy DLP13 as follows:

#### **Policy DLP13 Supported and Specialist Housing Accommodation**

1. The Council will support the provision of accommodation for people with specific needs, ~~where a need has been identified~~. Proposals providing accommodation for people with specific needs, including ~~care homes and extra care facilities~~ **specialist housing to meet the needs of older people** will be considered in relation to the following criteria.....’

### **Policy DLP9 Healthcare Infrastructure**

Policy DLP9 requires *‘Proposals for major residential developments of 10 units or more must be assessed against the capacity of existing healthcare facilities and/or services. Where the demand generated by the residents of the new developments would have unacceptable impacts upon the capacity of these facilities, developers will be required to contribute to the provision or improvement of such services’*.

The Council should note that there is a common misconception that older person’s housing places an additional burden on healthcare infrastructure and therefore rather than requiring applicants of older person’s schemes to show that there is capacity in healthcare systems, the policy or supporting text should instead recognise the health benefits that delivering older people’s housing can bring to individuals.

Older Persons’ Housing produces a large number of significant benefits which can help to reduce the demands exerted on Health and Social Services and other care facilities – not only in terms of the fact that many of the residents remain in better health, both physically and mentally, but also doctors, physiotherapists, community nurses, hairdressers and other essential practitioners can all attend to visit several occupiers at once. This leads to a far more efficient and effective use of public resources.

A report *“Healthier and Happier’ An analysis of the fiscal and wellbeing benefits of building more homes for later living”* by WPI Strategy for Homes for Later Living explored the significant savings that Government and individuals could expect to make if more older people in the UK could access this type of housing. The analysis showed that:

- ‘Each person living in a home for later living enjoys a reduced risk of health challenges, contributing to fiscal savings to the NHS and social care services of approximately £3,500 per year.
- Building 30,000 more retirement housing dwellings every year for the next 10 years would generate fiscal savings across the NHS and social services of £2.1bn per year.
- On a selection of national well-being criteria such as happiness and life satisfaction, an average person aged 80 feels as good as someone 10 years younger after moving from mainstream housing to housing specially designed for later living.’

In addition, specifically designed housing for older people offers significant opportunities to enable residents to be as independent as possible in a safe and warm environment. Older homes are typically in a poorer state of repair, are often colder, damper, have more risk of fire and fall hazards. They lack in adaptations such as handrails, wider internal doors, stair lifts and walk in showers. Without these simple features everyday tasks can become harder and harder.

**Recommendation:**

For the plan to be in line with national policy and effective the following text should be added to policy DLP9:

**Specialist housing to meet the needs of older peoples have a number of health benefits to residents and cost saving to health providers and therefore schemes delivering specialist housing for older people do not need to be assessed against the requirements of Policy DLP9.**

**Policy DLP32 Nature Recovery Network and Biodiversity Net Gain**

Whilst we support point 2 in the confirmation that *‘all development shall deliver a minimum 10% net gain’*, we have concerns over point 5, 8 and 9 that tries to introduce a sequential approach to BNG on-site and off-site delivery.

The Council should note that section 6 of the DEFRA User Guide (draft) entitled ‘The Statutory Biodiversity Metric, November 2023 (draft Metric) identifies a spatial risk multiplier that *‘reflects the relationship between the location of on-site biodiversity loss and the location of off-site habitat compensation’*: *‘It affects the number of biodiversity units provided to a project by penalising proposals where off-site habitat is located at distance from the impact site’*.

Table 8 of the draft Statutory Metric then identifies the spatial risk score to be used for each habitat group depending on the location of the compensation site in comparison to the development site. For example, within the Local Planning Authority (LPA) Area or National Character Area (NCA) of the impact site the spatial risk score would be 1, if the compensation is outside LPA or NCA of impact site, but in neighbouring LPA or NCA the spatial risk score is 0.75. The draft Statutory Metric therefore already accommodates the distance away from the development site that the off-site BNG is proposed, with more BNG units being required the further away the compensation site is from the development site.

**Recommendation**

Para 5,8 and 9 of policy DLP32 should be deleted and instead the Council should rely on the Statutory Biodiversity Metric especially given the Statutory nature of BNG.

~~5. Biodiversity net gain shall be provided in line with the following principles:~~

~~a. a preference for on-site habitat provision / enhancement wherever practicable, followed by improvements to sites within the local area, and then other sites elsewhere within Dudley;~~

~~b. the maintenance and where possible enhancement of the ability of plants and animals (including pollinating insects) to move, migrate and genetically disperse across Dudley and the Black Country;~~

~~c. the provision / enhancement of priority habitats identified at the national, regional, or local level, having regard to the scarcity of that habitat within Dudley and the Black Country~~

~~8. Off site compensation will be accepted as a fall back only if compensating for losses is not possible within the development site boundary; where off site measures are needed to meet biodiversity net gain requirements, it is expected that the off site habitat enhancement or creation will be local to the development site.~~

~~9. Provision of on or off site compensation should not replace or adversely impact on existing alternative / valuable habitats in those locations and should be provided prior to development.~~

### Policy DLP33 Provision, retention and protection of trees, woodlands, Ancient Woodland, and Veteran trees

We note that point 5 requires. *'All major developments must deliver a minimum of 20% canopy cover, with the emphasis on retaining existing established trees.'*

NPPF para 16. identifies that 'plans should b) be prepared positively, in a way that is aspirational but deliverable'. Para 131 provides guidance specifically associated with trees and states *'Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-led, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users'*.

Requiring a 20% tree canopy cover on major developments is not deliverable or realistic, especially on previously developed land and could compromise sustainability development and is therefore contrary to NPPF. Any requirement would also need to be fully evidenced and the requirement incorporated properly into the viability study.

#### **Recommendation:**

The Council should delete DLP33 point 5

~~5. All available data on extant tree canopy cover and associated habitat 16 will be considered when making decisions on the proposed loss of trees and woodland to accommodate infrastructure and other development proposals. All major developments must deliver a minimum of 20% canopy cover, with the emphasis on retaining existing established trees~~

Thank you for the opportunity to comment.

Yours faithfully

