



22 December 2023

Dudley Draft Regulation 18 Part One Spatial Strategy and Policies
Dudley Metropolitan Borough Council
Council House,
Priory Road,
Dudley,
DY1 1HF.

By email: planning.policy@dudley.gov.uk

Dear Sir or Madam,

The Dudley Local Plan 2041

WMRTAB Observations on the Draft (Regulation 18) Plan - Part One: Spatial Strategy and Policies

The West Midlands Resource Technical Advisory Body (WMRTAB) was formed in 2011 and its overarching aim is to support co-operation between Waste Planning Authorities (WPAs) and others in the West Midlands, by providing objective and authoritative technical advice concerning the sustainable management of material resources and strategic waste management data, issues, and development policies and proposals. In particular, WMRTAB helps WPAs meet their obligations under the Duty to Cooperate for plan making. A copy of the Terms of Reference for WMRTAB is included as Appendix 1. The Terms of Reference also lists the members of WMRTAB.

The Dudley Local Plan (DLP) area is located wholly within the area covered by WMRTAB and it would therefore like to offer observations on the Regulation 18 Draft Dudley Local Plan Part One: Spatial Strategy and Policies as set out below. For the avoidance of doubt WMRTAB does not wish to provide comments in response to the separate consultation on 'Centres and Site Allocations' (Part Two). These observations have been agreed by members of WMRTAB and are submitted by Cool Planet Resources Ltd which is contracted by WPAs in the West Midlands to provide support to WMRTAB.

Please note that this submission represents an officer level, technical response only and is made without prejudice to any comments that individual members of WMRTAB may make on the Draft DLP. Any responses submitted by individual members to this plan takes precedence.

Duty to Cooperate

WMRTAB supports the explicit recognition in the Draft DLP that waste crosses administrative boundaries for management and the resulting need for collaboration with other Waste Planning Authorities in accordance with the Duty to Cooperate (DtC). Relevant extracts from the Draft DLP are included below:

Paragraph 17.16 of the Draft DLP states that: *‘The Dudley Borough Waste Study identifies that more than 80% of waste imported and exported from Dudley stays within the West Midlands region. Waste flows within the West Midlands emphasises the interdependence that exists between the authorities within this region. It is recognised that ongoing collaboration with relevant local authorities under the Duty to Cooperate will be required to ensure waste capacity requirements that cannot be delivered within the borough are available in other areas, where there are existing import/export relationships established and ongoing (e.g., disposal at landfills).’*

And paragraph 17.1 includes the following: *‘The Council will work collaboratively with other Waste Planning Authorities to address the identified waste infrastructure needs.’*

Paragraph 17.18 further states that: *‘the Local Plan policies are focused on the borough’s waste requirements and infrastructure, however given the nature of waste management (where waste arising in one area is often managed in another, and facilities will have catchment areas that extend beyond their boundaries) the wider context of the Black Country area (and beyond) is recognised’.*

WMRTAB notes that the four Black Country Authorities (Dudley, Sandwell, Walsall and Wolverhampton) sent out letters to the surrounding Local Authorities in July 2018, August 2020 and April 2022 regarding the issue of housing and employment need across the Black Country and how it can be met and other cross-boundary matters. The latest Duty to Cooperate letter to Neighbouring Authorities (April 2022)¹ has no mention of waste management which is recognised as a strategic matter in the National Planning Policy Framework, however WMRTAB recognise that engagement related to ensuring compliance with the DtC is ongoing.

WMRTAB was unable to identify a separate ‘Duty to Cooperate Statement’ within the evidence base for the Draft DLP that clearly sets out which strategic matters exist between Dudley and other Waste Planning Authorities, how ongoing meaningful dialogue is being

¹ Duty to Co-operate letter to Neighbouring Authorities (April 2022) [ABCA DtC \(dudley.gov.uk\)](https://www.dudley.gov.uk/abcadtc)

undertaken to address these matters and the outcome of this dialogue in terms of policies within Local Plans. While not being essential, the publication of such information is good practice and WMRTAB wish to draw attention to the Planning Inspectorate '[Procedure Guide for Local Plan Examinations](#)' which includes the following (with emphasis added):

*'Has evidence to demonstrate compliance with the Duty to Co-operate been prepared? 1.15. In order to demonstrate compliance with the duty to co-operate (section 33A of the PCPA), the most helpful approach is for the LPA to submit a statement of compliance with the duty. **The statement of compliance should identify any relevant strategic matters and how they have been resolved – or if they have not, why not. It should detail who the LPA has co-operated with and on which strategic matter(s), the nature and timing of the co-operation (e.g. by including meeting notes), and the outcomes of the co-operation, including how it has influenced the plan**'*

WMRTAB therefore recommends that such a statement be prepared for publication with the evidence base at the next consultation stage. In any event, and as noted above, WMRTAB recognise that engagement related to ensuring compliance with the DtC is ongoing.

As a significant net importer of hazardous waste, it is important that the DLP is clear about how Dudley intends continues to meet the needs of other areas in the management of such waste, in order that they can plan for their needs accordingly.

WMRTAB notes that a Statement of Common Ground (SoCG) has been prepared between the Association of Black Country Authorities (ABCA) and Shropshire Council². Paragraph 6 (Key Strategic Matters) of this SoCG states that '*The following key issues have been identified in the Duty to Cooperate conversations between Shropshire Council and ABCA: Relevant cross boundary waste and mineral considerations*'. Paragraph 8.14 outlines that '*no strategic cross boundary issues regarding mineral or waste provision have been identified*'. WMRTAB assumes therefore that Dudley is not reliant on Shropshire for the management of waste arising in its area and recommends that this be clearly noted in a separate Duty to Cooperate statement as an outcome of DtC engagement between the two authorities. Ideally this should also recognise any reliance by Shropshire on Dudley for the management of waste arising in its area.

WMRTAB also notes that Dudley Metropolitan Borough Council is an active member of WMRTAB and an officer from the Council regularly attends the group's meeting and contributes to its work. WMRTAB has therefore facilitated discussion between Dudley Metropolitan Borough Council and other neighbouring waste planning authorities to assist with meeting its DtC on matters pertaining to the planning for waste management.

² Statement of Common Ground between Shropshire Council and the Association of Black Country Authorities (ABCA)' (published July 2021)

Strategic Priorities

The Draft DLP includes ‘*Strategic Priority 2*’ which involves ‘*Protecting and enhancing the natural and historic environment and support an increase in biodiversity and ecological networks by:....*

• *the effective and appropriate use of previously developed land and natural resources including sustainable building techniques and provides for **sustainable waste management and disposal**.*

WMRTAB supports the inclusion of such a strategic priority.

Planning for sufficient waste management capacity

The associated waste needs assessment published as part of the evidence base ([The Dudley Borough Waste Study \(2023\)](#))³ provides an updated assessment based on 2021 data. The Study identifies a range of waste management capacity gaps for recycling, recovery and landfill based on the following three waste management scenarios:

Table 3.7 Waste Management Scenarios

	Household waste	C&I waste	CD&E waste
Waste management scenario 1 (WMS1): no change in recycling performance	No change in household waste recycling	No change in C&I waste recycling	No change in CD&E recycling
Waste management scenario 2 (WMS2): meet EU Circular Economy targets	65% household waste reuse, recycling and composting by 2035	65% C&I waste reuse, recycling and composting by 2035	c.85% CD&E recycling or recovery by 2030
Waste management scenario 3 (WMS3): progress towards EU Circular Economy targets	60% household waste reuse, recycling and composting by 2035	60% C&I waste reuse, recycling and composting by 2035	c.80% CD&E recycling or recovery by 2030

Existing (2021) waste management capacity is set out in paragraph 2.6.2 of the Waste study as follows:

- Recycling and Recovery – 430,000 tonnes per annum
- Transfer – 109,000 tonnes per annum
- Inert Landfill – 0 cubic metres / 0 tonnes
- Non-Hazardous Landfill – 259,000 cubic metres / 220,000 tonnes
- Hazardous Landfill – 0 cubic metres / 0 tonnes

Based on the above the total baseline capacity is around 759,000 tonnes. Capacity gaps are estimated, on the basis of achieving net self-sufficiency, as follows:

³ BCWS (Updated waste needs assessment to support preparation of emerging Local Plans for each Black Country Authority – Dudley) (published September 2023) [dudley-waste-study-2023-redacted.pdf](#)

Table 3.9 Projected Capacity Gaps/Surpluses under each WMS over the Plan Period, by Site Category (tonnes)

Site Category	2021/22	2025/26	2030/31	2035/36	2040/41
Recycling:					
WMS1	-74,000	-85,000	-102,000	-120,000	-140,000
WMS2	-74,000	-231,000	-345,000	-429,000	-473,000
WMS3	-74,000	-160,000	-282,000	-362,000	-400,000
Recovery:					
WMS1	-99,000	70,000	53,000	33,000	9,000
WMS2	-99,000	27,000	-71,000	-100,000	-143,000
WMS3	-99,000	34,000	-43,000	-108,000	-152,000
Transfer:					
WMS1	-5,000	-10,000	-17,000	-26,000	-36,000
WMS2	-5,000	1,000	2,000	-4,000	-11,000
WMS3	-5,000	-2,000	1,000	-4,000	-11,000
Disposal:					
WMS1	-217,000	-459,000	-496,000	-539,000	-588,000
WMS2	-217,000	-282,000	-149,000	-120,000	-129,000
WMS3	-217,000	-356,000	-239,000	-178,000	-192,000

Figures may not sum due to rounding.

Related commentary is set out in paragraphs 3.5.25 to 3.5.28 (with emphasis added):

*3.5.25 Table 3.9 shows that the waste management capacity gaps over the Plan Period are more apparent for **recycling sites** under WMS option 2 and 3 as more waste is sent for recycling in line with government targets. There is also a capacity deficit for recovery for WMS2 and WMS3; but there is a capacity surplus for WMS1. There is more **waste sent for recovery** under WMS2, than WMS3, as this is related to the way imported waste has been forecasted, this element constituting a large fraction of the overall waste. Given the internal increase in waste sent for recycling, and the reduced requirement on waste sent for recovery, it is expected that waste imported for recovery to be slightly higher under WMS2 than WMS3. Under WMS3 the internal demand for recovery capacity is higher with less waste sent for recycling, but the recovery projections for C&D waste are higher under WMS2 option. **There is sufficient disposal capacity over most of the plan period under all three options** in particular under WMS1 as more waste is sent for disposal with a continuation of existing management methods.*

*3.5.26 Housing growth will put pressure on existing **household waste** management capacity, and as this is largely managed outside Dudley under current contractual arrangements this is an important focus going forward. Dudley may also need to accommodate some of the waste capacity requirements of other waste planning authorities, especially as they are a net importer of waste, putting greater pressure on an already saturated waste management infrastructure capacity.*

3.5.27 There are limited options for residual waste disposal with no quarries in Dudley likely to come forward for restoration by infilling with inert or non-hazardous waste during the Plan Period. There are also limited options for CD&E waste recycling and organic waste treatment; there are no composting or anaerobic digestion facilities within the area.

The executive summary of the Dudley Borough Waste Study (2023) provides the following summary (with emphasis added): ***‘To achieve ‘net self-sufficiency’ Dudley would be expected to provide for extra waste capacity. If self-sufficiency is to be maintained then an additional 140,000 to 473,000 tonnes of recycling capacity will be required by the end of the Plan Period to support planned housing and employment growth and compensate for the types of waste capacity it cannot accommodate because of being a largely built-up area (e.g. composting, AD, hazardous landfill).’***

Paragraphs 17.7 to 17.16 of the Draft DLP essentially set out the key findings [The Dudley Borough Waste Study \(2023\)](#):

Paragraph 17.7 states that *‘The Dudley Borough Waste Study (2023) provides an updated baseline on waste arisings, imports, and exports. In 2021 Dudley was estimated to generate approximately 470,000 tonnes of waste. Excluding exempt sites, the largest waste stream was estimated to be construction, demolition and excavation (CD&E) waste at over 254,000 tonnes. Just under 127,000 tonnes were collected by the Council from household sources. Commercial and industrial (C&I) waste arisings (including LACW non-household sources) were estimated to be just under 70,000 tonnes and hazardous waste arisings to be over 19,000 tonnes. Other waste stream arisings were just over 400 tonnes, composed primarily of agricultural waste’.*

Paragraph 17.8. states that *‘with the exception of exempt sites, over 114,000 tonnes (23.5%) were re-used, recycled or composted, over 182,000 tonnes (37.6%) were subject to recovery or treatment, over 149,000 tonnes (37.6%) (mainly construction and demolition waste) was disposed to landfill, and just over 40,000 tonnes (8.3%) were transferred for management elsewhere’.*

Paragraph 17.9 states that *‘Dudley is an importer of waste with facilities within its boundaries (including permitted sites and incinerators) managing 662,000 tonnes in 2021. Of this total the biggest percentage (by tonnage) (24%) was received at Treatment sites, followed by Landfill sites (24%), Metal Recycling Sites (23%), Incinerators (15%) with the remainder managed through Transfer sites (14%)’.*

Paragraph 17.10 states that *‘overall, Dudley was estimated to import circa 1,500 tonnes more waste than it exported in 2021, with the vast majority of these imports (85%) arising from within the West Midlands Region. Dudley was a net importer of hazardous waste by approximately 2,000 tonnes and a net exporter of non-hazardous waste by a mere 360 tonnes’.*

WMRTAB notes that, paragraph 17.13, ‘capacity gaps’ are identified over the plan period in relation to waste management capacity based on two scenarios relating to the achievement of different rates of recycling: ‘*The Dudley Borough Waste Study, 2023 (at Table 3.9) predicts that the following additional waste management capacity will need to be delivered up to 2041 to maintain the Borough’s net self-sufficiency:*’

Table 17.1 Waste management capacity requirements⁴ (2020-2041)

	<i>WMS2 (tonnes per annum)</i>	<i>WMS3 (tonnes per annum)</i>
<i>Re-use/Recycling</i>	<i>473,000</i>	<i>400,000</i>
<i>Energy Recovery</i>	<i>143,000</i>	<i>152,000</i>
<i>Disposal</i>	<i>129,000</i>	<i>192,000</i>

Paragraph 17.14 states that ‘*this takes account of known future developments or closures of waste management facilities. Total waste management capacity is projected to decrease from 758,000 tonnes in 2021 to 718,000 tonnes in 2041 which is driven by decreasing landfill space with recycling, recovery and transfer capacity not anticipated to change significantly.*’

WMRTAB notes that the general approach taken to identifying capacity gaps in the Dudley Waste Study appears to be robust and has the following observations:

- Paragraph 17.1 outlines that (with emphasis added): ‘*The key driver is to minimise the amount of waste generated across all sectors and increase the re-use, recycling, and recovery rates of waste material (seeking to achieve net self-sufficiency).*’ However, WMRTAB notes that the maintenance of net self-sufficiency, in terms of provision for waste management, does not appear to be an objective within the Draft DLP. For the avoidance of doubt, WMRTAB consider that such an objective should be clearly stated within the DLP.
- While the Study recognises that Dudley might have to ‘*accommodate some of the waste capacity requirements of other waste planning authorities*’, it is not clear in the Draft DLP whether there has been any attempt to do this.
- Similarly, both the Study and the Plan suggest that Dudley should compensate for its lack of ability to accommodate certain types of waste management capacity e.g. composting, AD, hazardous landfill by planning for additional reuse, recycling, other treatment and inert and non hazardous landfill, however it is not clear how this has been taken forward in the Draft DLP.
- In terms of landfill, it is not clear why accommodating hazardous landfill within Dudley has been identified as being problematic whereas the identification of non

⁴ WMRTAB Note: These are additional and not total requirements.

hazardous landfill has not, as the local siting issues associated with these types of landfill are broadly the same.

- The Draft DLP also recognises the need for ‘ongoing collaboration’ with waste planning authorities which Dudley may rely on for the future management of some of its waste and WMRTAB recognise that but such collaboration, to resolve the question of how waste which cannot be managed with Dudley’s boundaries will be managed in future, may be subject to ongoing DtC engagement activity.
- A previous waste needs assessment had been prepared in 2022 for the Black Country following advice from WMRTAB that the waste needs assessment should be based on the latest available data. WMRTAB notes that more recent data, for 2022, is now available via the [Environment Agency Waste Data Interrogator 2022](#) that was published in November 2023.

Landfill

With regard to the management of waste by landfill WMRTAB notes that:

- Paragraph 2.6.2 of the waste study identified the following landfill capacity in Dudley in 2021:
 - Inert Landfill – 0 cubic metres / 0 tonnes
 - Non-Hazardous Landfill – 259,000 cubic metres / 220,000 tonnes
 - Hazardous Landfill – 0 cubic metres / 0 tonnes
- Paragraph 17.8 states that in 2021, for waste arising in Dudley ‘...over 149,000 tonnes (37.6%) (mainly construction and demolition waste) was disposed to landfill’.
- Paragraph 17.12 (Projected Future Waste Capacity Requirements) includes the following: ‘Exports already reflect a shortage of landfill space’
- A report prepared for WMRTAB on landfill in the West Midlands indicates the following for 2019:
 - *[There are five landfill sites for inert, non-hazardous & hazardous waste in the Black Country](#). At the end of 2019, active inert landfill capacity was estimated at 690,000 (m³), non-hazardous LF capacity estimated at 11,666,401 (m³) and non-hazardous LF capacity with SNRHW cell estimated at 418,953 (m³). Landfill sites have been allocated in Walsalf which allow a further increase inert landfill capacity of 3,000,000 (m³) in future.*
- Paragraph 17.9 suggests that of the 662,000 tonnes of waste managed within Dudley, 24% was managed at landfill sites which equates to 158,880 (it is unclear how this relates to the 149,000 tonnes value mentioned above).

Although at the bottom of the waste hierarchy, non-hazardous landfill is still an important type of waste management that needs to be planned for. On this basis

WMRTAB recommends that the DLP should clearly state and indicate what the future requirement for landfill capacity will be and how that requirement is to be met. This should include any expectation that waste to be managed by landfill will be exported to other areas and resolved via the ongoing Duty to Cooperate engagement.

Waste management development considerations

WMRTAB generally supports the development considerations set out in Policy DLP75, DLP76, DLP77, DLP78 and DLP79 in relation to employment areas, minimising harm to human health and the environment, and other impacts of waste management proposals such as on surrounding buildings, resources and constraints on development.

Policy DLP75 – Waste Infrastructure Future Requirements states:

1. *Proposals for **relevant, major development** shall evidence how its operation will minimise waste production, as well as facilitating the re-use and recovery of waste materials including, for example, through recycling, composting and energy from waste.*
2. *Proposals for waste management facilities will be supported based upon the following principles:*
 - a. *managing waste through the waste hierarchy in sequential order. Sites for the disposal of waste will only be permitted where it meets a need which cannot be met by treatment higher in the waste hierarchy.*
 - b. *promoting the opportunities for on-site management of waste where it arises and encouraging the co-location of waste developments that can use each other's waste materials.*
 - c. *ensuring that sufficient capacity is located within the borough to accommodate the waste capacity requirements during the plan period (as far as practically possible) and reducing the reliance on other authority areas.*
 - d. *enabling the development of recycling facilities across the borough, including civic amenity sites, and ensuring that there is enough capacity and access for the deposit of municipal waste for re-reuse, recycling, and disposal.*
 - e. *waste must be disposed of, or be recovered in, one of the nearest appropriate facilities, by means of the most appropriate methods and technologies, to ensure a high level of protection for the environment and public health.*
 - f. *ensuring new waste management facilities are located and designed to avoid unacceptable adverse impacts on the townscape and landscape, human health and well-being, nature conservation and heritage assets and amenity.*
 - g. *working collaboratively with neighbouring authorities with responsibilities for waste who import waste into, or export waste out of, the borough, to*

ensure a co-operative cross boundary approach to waste management is maintained.

WMRTAB generally supports Policy DLP75 but has the following observations:

- Regarding clause 1, the term '**major development**' has not been defined. WMRTAB suggest additional clarity could be provided within the DLP to make it clear what '**major development**' consists of and so therefore what type of proposal would this part of the policy apply to. Clause 1 also states that there is a need to demonstrate how **operation** of the facility will '**minimise waste production**', however, the construction phase seems not to have been considered within the policy whereas this is frequently a source of significant quantities of waste.
- Consideration should be given to tightening the second sentence of Clause 2 a, to help ensure that waste is managed at the highest point of the hierarchy as practicable. As drafted it might be said that waste going for disposal which is recyclable could be managed by energy recovery as this is above disposal in the hierarchy, however, clearly such waste should be recycled (if it cannot be re-used).
- The text of clause 2 c ought to be amended so the extent to which this allows for the development of capacity to meet the requirements of other areas is clear. The meaning of the term '*as far as practically possible*' should also be clarified.
- It is not clear why other recovery (e.g. energy from waste) is not listed alongside '*re-reuse, recycling, and disposal*' in clause 2 d.
- It is noted that clause 2 e would allow for the import of waste into Dudley and ultimately, it appears that a facility could be justified solely on the grounds that it is the most appropriate location for waste arising beyond Dudley to be managed.
- To be consistent with NPPF, should clause 2 f also seek enhancements, as well as the avoidance of unacceptable impacts, to certain features?
- Clause 2 g is strongly supported, however the extent to which Dudley will rely on other areas in future to meet its needs and how it is meeting the capacity requirements of other areas is not clear. This should be investigated and set out to ensure the DLP is prepared in accordance with the DtC. Furthermore, it is hard to see how a developer of a proposed facility would be able to demonstrate consistency with this clause when applying for planning permission.

WMRTAB notes that Paragraph 17.6 states: '*A circular economy and the effective management of waste also has a role to play in helping to address climate change, e.g., the re-use of resources helps reduce the demand for new materials and the emissions associated with producing the latter*'. in light of national policy (and plan making legislation), this is an area that may need further attention. A review of the policies to ensure they are aligned with this agenda is recommended. Such a review might consider how energy from waste facilities could be required to ensure that use of heat produced, as well as electricity, is maximised.

It is noted that '*Policy DLP42 Energy Infrastructure*' of the draft DLP includes the mention of 'Energy from waste' as outlined below:

‘Onsite energy provision

2. Developers should engage with relevant energy companies and bodies at an early stage in the development process to establish the likely future energy and infrastructure requirements arising from large-scale development proposals including 100 homes or more, or non-residential floorspace of 10,000 sq m or more. Proposals for addressing energy provision on such sites should be developed and agreed between the local planning authority and developer(s) to establish the lowest lifetime carbon energy provision. Information to support the preferred solution(s) should identify and address:...

*d. possible opportunities to utilise **energy from waste** or waste heat from industrial processes’.*

Safeguarding Existing Capacity

WMRTAB supports the approach of safeguarding existing waste management capacity as this is an important consideration, especially in an area where there is a need to find suitable land to alleviate other development pressures. WMRTAB notes that the proposed policy protection is set out in Policy DLP76–Waste Sites as follows:

‘Protecting Waste Sites

- 1. The Council will safeguard all existing strategic (as listed in the 'Justification' below) and other waste management facilities from inappropriate development to maintain existing levels of waste management capacity, unless it can be demonstrated that:
 - a. there is no longer a need for the facility; and*
 - b. capacity can be met elsewhere; or*
 - c. appropriate compensatory provision is made in appropriate locations elsewhere in the borough; or*
 - d. the site is required to facilitate the strategic objectives of the Plan.**
- 2. This policy will also apply to all new waste management sites that are implemented within the lifetime of the plan.*

New development near existing waste facilities

- 3. Proposals for housing and other potentially sensitive uses will not be permitted near to or adjacent to an existing waste management site where there is potential for conflict between the uses that cannot be fully mitigated (applying the 'agent of change' principle) unless:
 - a. a temporary permission for a waste use has expired, or the waste management use has otherwise ceased, and the site or infrastructure is considered unsuitable for a subsequent waste use; or**

- b. redevelopment of the waste site or loss of waste infrastructure would form part of a strategy or scheme that has wider environmental, social and /or economic benefits that outweigh the retention of the site or infrastructure for the waste use and alternative provision is made for the displaced waste use; or*
- c. a suitable replacement site or infrastructure has otherwise been identified and permitted.*

4. *Waste Site Impact Assessments will be expected to demonstrate that at least one of the above criteria applies. Applications should also identify any 'legacy' issues arising from existing or former waste uses, and how these will be addressed through the design of the development and the construction process'.*

Paragraph 17.18 states that: *'The focus of the Plan is on safeguarding strategic waste sites, while also giving appropriate protection to other waste sites. The Local Plan policies are focused on the borough's waste requirements and infrastructure, however given the nature of waste management (where waste arising in one area is often managed in another, and facilities will have catchment areas that extend beyond their boundaries) the wider context of the Black Country area (and beyond) is recognised'.*

WMRTAB generally supports the approach in the Draft DLP to safeguarding existing waste management capacity but has the following observations:

- Clause 1 of Policy DLP76 mentions '*other waste sites*' but it is not clear what these are. Should this make it clear that this means all other waste sites which are allowed to operate by planning legislation?
- The identified '*strategic waste sites*' and '*other waste sites*' appear to have the same level of safeguarding protection and so it is unclear why a distinction has been made between strategic and other waste sites. If the intention is to safeguard all waste sites, regardless of whether they are considered strategic or not, then WMRTAB recommend that the policy states this clearly.
- It is not clear what paragraph 17.18 means about recognising the wider Black Country context. Might this mean that a waste facility which is located in Dudley but primarily serving the needs of another part of the Black Country would be safeguarded? Or might it mean that if alternative compensatory capacity could be found in another part of the Black Country then a safeguarded site could be released for redevelopment? Either way, it is suggested that some further explanation and possibly wording in Policy DLP76 is needed.
- Clause 1. d. appears to introduce a contradiction as the '*strategic objectives*' include those concerned with ensuring the management of waste.

Locations for Waste Management

Regarding the approach of identifying land for waste management within Dudley, WMRTAB notes that paragraph 17.4 of the Draft DLP states: *'In seeking to identify*

development sites for waste infrastructure, priority shall be given to the safeguarding of existing sites for their continued use and the retention of the local employment areas in which they occur (see Policy DLP76 and Policy DLP20). As waste facilities are an essential part of the infrastructure of an area, it is not only important that they are appropriately located, but also that policy protection is applied to areas suitable for waste uses, to help achieve the objectives of moving waste up the hierarchy’.

Policy DLP20 Local Employment Areas states (with emphasis added):

1. *Local Employment Areas are identified on the Policies Map, and are characterised by a critical mass of industrial, warehousing and service activity with good access to local markets and employees.*
2. *These areas will have a particular focus on providing for the needs of locally based investment and will be safeguarded for the following uses:*
 - a. **industry and warehousing - Classes E(g)(ii), E(g)(iii), B2 and B8.**
 - b. *motor trade activities including car showrooms and vehicle repair and testing premises.*
 - c. *haulage and transfer depots.*
 - d. *wholesale trade and builders' merchants.*
 - e. **scrap metal, timber and construction premises.**
 - f. **waste collection, transfer and recycling uses.**
3. *Some ancillary employment-generating non-Class E(g)(ii), E(g)(iii), and Class B2 and B8 uses, such as childcare facilities and small-scale food and drink outlets of less than 280 m², may also be permitted in Local Employment Areas, where they can be shown to strongly support, maintain or enhance the business and employment function of the area, and meet sequential and other national or local policy tests as necessary.’*

Paragraph 17.31 (identification of preferred sites) states ‘*It is **not proposed to allocate specific sites for waste in the Plan** because no new sites likely to be deliverable within the Plan period have been identified, apart from sites that already have planning permission. To have sufficient confidence to allocate a site, it would need to be actively promoted for waste management use by a waste planning authority, a landowner, or a commercial waste operator’.* Instead ‘Preferred Areas’ are identified which are those ‘employment areas’ where it is considered new waste recovery, treatment, and transfer infrastructure could be developed. This is set out in Policy DLP77 - Preferred Areas for New Waste Facilities, which states that:

1. *‘The preferred location for new waste management facilities in the borough is the Local Employment Area shown on the Policies Map and Waste Key Diagram (Bloomfield Road/Budden Road, Coseley)*
2. *All proposals for new waste management facilities should demonstrate how they will contribute to the strategic objectives of Policy DLP75, such as the contribution*

they will make to landfill diversion, delivery of new waste management capacity and diversification of the range of facilities currently available.

- 3. All applications for waste development will be expected to comply with the requirements in Policy DLP78.'*

Paragraph 17.34 states that *'the policy allows for the provision of new waste facilities at other appropriate locations other than the Preferred Area at Bloomfield Road/Budden Road, with reference to Policy DLP78'*. Policy DLP78 – Locational Considerations for New Waste Facilities states that *'development for new build waste management facilities should be focused in local employment areas (primarily Local Employment Areas- Policy DLP20)...'*

WMRTAB has the following observations on the approach in the Plan to identifying suitable land for waste management:

- WMRTAB acknowledges that the approach of not allocating specific sites reflects the local circumstances/nature of the Black Country whereby waste sites frequently feature within general employment areas across the urban area and these are located within large urban areas that are constrained in terms of opportunities for new developments overall. In light of the size of the identified waste management capacity gap and the fact that waste management can struggle to compete with higher value employment land uses, WMRTAB recommends that the approach, of not allocating specific sites and relying on general areas and areas of employment land, be robustly justified within the evidence base.
- To provide certainty that the land at Bloomfield Road/Budden Road, Coseley is available, WMRTAB suggest that this be safeguarded solely for waste management development.
- WMRTAB acknowledge that the choice of the 'Preferred Areas' identified in the BWCS *'as being most suited to the development of new waste recovery, treatment, and transfer infrastructure'* was based on a series of locational considerations and constraints to identify the most appropriate likely future location for new waste facilities.
- WMRTAB understand Dudley has undertaken numerous Call for Sites exercises during the preparation of the current Local Plan and as part of its involvement in the former Black Country Plan.

Locational Considerations

Policy DLP78 – Locational Considerations for New Waste Facilities of the Draft DLP sets out the matters intended to ensure that waste facilities are developed in locations that maximise benefits and minimise harmful effects as follows:

'Key Locational Considerations for All Waste Management Proposals

- 1. Proposals should demonstrate how they will contribute to the strategic objectives of Policy DLP75, such as the contribution they will make towards landfill*

diversion, delivery of new waste management capacity and diversification of the range of facilities currently available.

2. *Development for new build waste management facilities should be focused in local employment areas (primarily Local Employment Areas- Policy DLP20) and will be required to meet the following criteria:*
 - a. *evidence the need for the facility.*
 - b. *all waste processes and operations must be contained, processed and managed within buildings unless there are acceptable operational reasons why these processes cannot be contained in buildings.*
 - c. *proposals must accord with all other policies in relation to the protection of the natural and historic environment and public amenity or demonstrate that other material considerations outweigh any policy conflicts.*
 - d. *consideration will be given to the potential impacts of waste management proposals on*
 - i. *minimising adverse visual impacts.*
 - ii. *potential detrimental effects on the environment and public health.*
 - iii. *generation of odours, litter, light, dust, and other infestation.*
 - iv. *noise, excessive traffic and vibration.*
 - v. *risk of serious fires through combustion of accumulated wastes.*
 - vi. *harm to water quality and resources and flood risk management.*
 - vii. *land instability.*
 - viii. *land use conflict- proposals should demonstrate compatibility with the uses already present within / adjacent to the area.*
 - ix. *where necessary mitigation measures should be identified to reduce any adverse effects to an acceptable level.*
 - x. *whether the proposal would provide opportunities for co-location of related uses and / or generate other benefits (for example; produce a range of waste types or streams, produce high quality aggregates or other useful raw materials, or supply heat and power or other forms of energy to adjacent uses).*

Waste Applications – Supporting Information

3. *Planning applications for waste development (Note 1 below) should include a supporting statement that clearly describes the key characteristics of the development. It should also explain how the development aligns with the principles and preferred methods of managing waste in Policy DLP75. In particular, the application should explain the contribution the development would make towards driving waste up the waste hierarchy, supporting the development of a more circular economy, meeting the boroughs' additional waste capacity requirements, and broadening the range of waste facilities currently available in the plan area.*

4. *The following information should also be included in the supporting statement and/or on the planning application form:*
- a. *the type of waste facility or facilities proposed.*
 - b. *the waste streams and types of waste to be managed.*
 - c. *the types of operation to be carried out on the site.*
 - d. *whether waste would be sourced locally, regionally or nationally.*
 - e. *the maximum operational throughput in tonnes per annum.*
 - f. *for waste disposal, the total void space to be infilled in cubic metres.*
 - g. *the outputs from the operations, including waste residues.*
 - h. *the expected fate and destination of the outputs.*
 - i. *the number of associated vehicular movements.*
 - j. *the number of jobs created.*

Notes: (1) This includes applications for new build waste developments, changes of use to waste developments, applications for new operational development and other material changes to existing waste sites, and 's73' applications to vary a condition attached to an existing waste permission.

WMRTAB generally supports Policy DLP78 but has the following observations:

- Clause 1 appears to be concerned with general strategic matters rather than 'locational considerations' (and so perhaps should be incorporated within Policy DLP 75).
- Also regarding clause 1, WMRTAB notes that '*landfill diversion*' is not the same as management of waste in accordance with the waste hierarchy and suggest that this clause be amended to ensure facilities are developed which will ensure waste is managed in accordance with the waste hierarchy.
- Clause 2b requires that '*all waste processes and operations must be contained, processed and managed within buildings unless there are acceptable operational reasons why these processes cannot be contained in buildings*'. However it is not clear what the term 'acceptable operational reasons' means in practice and so, to ensure the policy can be implemented as envisaged some explanation is needed.
- Clause 3 invokes '*broadening the range of waste facilities currently available in the plan area*' as a reason to grant planning permission (amongst other things), whereas such a broadening may not necessarily be appropriate e.g. this may mean greater availability of facilities lower down the waste hierarchy.

WMRTAB hope these comments are of use. Please do not hesitate to contact me if you wish to discuss further. I'd be grateful if you would notify WMRTAB, via the email address provided above, of any future consultation relating to the Dudley Local Plan.

Yours sincerely,





Chair, West Midlands Resource Technical Advisory Body

Appendix 1

West Midlands Resources Technical Advisory Body Terms of Reference

Updated June 2021 (Final)

1.0 Introduction

- 1.1 The West Midlands Resource Technical Advisory Body (WMRTAB) is a group consisting of: Waste Planning Authorities (WPAs), primarily from the former West Midlands Region; representatives from the waste management industry; and other interested parties. Member organisations are listed in Appendix 1.
- 1.2 Under the Planning and Compulsory Purchase Act 2008, WPAs are required to prepare Local Plans which set out how and where waste can be managed in their areas over a 15 year period.
- 1.3 National Planning for Waste states that: *“In preparing Local Plans, waste planning authorities should:....work collaboratively in groups with other waste planning authorities, and in two-tier areas with district authorities, through the statutory duty to cooperate, to provide a suitable network of facilities to deliver sustainable waste management;”*
- 1.4 Waste arising in one WPA area will frequently be managed in another. For example, in order to achieve economies of scale, waste management facilities will often have a catchment which extends beyond the boundary of the planning area within which it is situated. Planning to ensure that sufficient capacity is available to meet future requirements for the management of waste therefore constitutes a ‘strategic matter’ and falls under the ‘Duty to Cooperate’ (DtC). The DtC requires local planning authorities to engage ‘constructively, actively and on an ongoing basis’ when addressing strategic waste planning matters in their Waste Local Plans.
- 1.5 The need for cooperation between WPAs and other bodies on waste is reflected in National Planning Policy for Waste and the Waste Management Plan for England 2021 which states:
‘Strategic policy-making authorities should cooperate with each other, and other bodies, when preparing, or supporting the preparation of policies which address strategic matters, including policies contained in local waste plans. In particular, joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a particular plan area could be met elsewhere. Further consideration is to be given as to the optimal way in which strategic cross-boundary issues, such as major infrastructure or strategic sites, can be adequately planned for, including the scale at which plans are best prepared in areas with significant strategic challenges.’

2.0 Aims

- 2.1 The overarching aim of WMRTAB is to support co-operation between WPAs and others, by providing objective and authoritative technical advice concerning the sustainable

management of material resources and strategic waste management data, issues, and development policies and proposals. In particular, WMRTAB will help WPAs meet their requirements under the DtC.

3.0 Specific areas of activity

3.1 In order to meet the above aims, WMRTAB will:

- Bring together a wide range of expertise in what is a very specialist area of planning through a wide membership including waste planning and management officers of the Waste Planning Authorities (WPAs) in the West Midlands, the Environment Agency, representatives of industry including the waste management industry, and representatives of environmental organisations;
- Identify strategic issues affecting the sustainable management of waste e.g. waste hierarchy, proximity principle and self-sufficiency;
- Undertake and/or commission technical work where there are identified benefits from work being undertaken at larger than local scale;
- Prepare guidance and best practice to be followed by Member WPAs;
- Formally respond, as a body, to the technical evidence base and policy documents of member authorities and other strategic and national consultations⁶. Responses will be based on any guidance/best practice notes prepared by WMRTAB;
- Notwithstanding the above, provide comments on member WPA compliance with the Duty to Cooperate when its waste planning policy is published for representations;
- Raise awareness of waste management as an integral part of the circular economy/climate change agenda and contribute to the waste/resource management planning agenda on a national level and within the WMRTAB geographic area;
- Raise awareness of the role of WMRTAB generally e.g. by attendance at relevant meetings and events and also through the preparation of articles for relevant publications.
- Where invited, provide WMRTAB representation on groups and at workshops where strategic waste planning matters are discussed e.g. Local Enterprise Partnerships, West Midlands Combined Authority, National Waste TAB Chairs;
- Take part in online discussion/information sharing groups to help build skills and knowledge with the WMRTAB membership;
- Provide and/or commission training and support for Member organisations related to waste planning;

3.2 Member WPAs engaging each other (and other WPAs) on strategic waste management matters may have regard to WMRTAB Duty to Cooperate Guidance.

3.3 To assist with the effective running of the group WMRTAB shall:

- Publish evidence documents, guidance, meeting minutes, agendas etc online for member authorities to access and use at public examination as required;

⁶ This will not fetter the ability of Member authorities to make their own representations as appropriate.

- Prepare and monitor an annual business plan that identifies specific activities to take place with a 12 month period under the above categories;
- Meet twice a year;
- Contribute to the preparation of meeting agendas to ensure discussion of relevant strategic matters (Minutes will be prepared by a designated minute-taker on a rotating basis);
- Review and update (as necessary) these Terms of Reference on an annual basis.

3.4 Member WPAs will make a financial contribution to the organisation and running of the group. This will include the costs of employing an independent Chair.

4.0 Member agreement

4.1 All organisations listed in Appendix 1 agree to membership of the group on the basis of the terms set out in this document.

Appendix 1 WMRTAB Member Organisations

N.B. This list is subject to change but was correct at 30 June 2021

Waste Planning Authorities:

- Birmingham City Council;
- Coventry City Council;
- Dudley Metropolitan Borough Council;
- Herefordshire Council;
- Sandwell Metropolitan Borough Council;
- Solihull Metropolitan Borough Council;
- Shropshire Council;
- Staffordshire County Council;
- Stoke on Trent City Council;
- Telford & Wrekin Council;
- Warwickshire County Council;
- Walsall Metropolitan Borough Council;
- Wolverhampton City Council; and,
- Worcestershire County Council

Waste Management Industry:

- Biffa and Veolia (nominated by the Environmental Services Association),
- MVV
- Robert Hopkins Ltd and NISP/ International Synergies

Other Interested Parties:

- Waste Disposal Authorities
- Adjoining Waste Planning Authorities
- Environment Agency
- Friends of the Earth on behalf of Sustainability West Midlands
- Representatives from other (R)TAB groups

