



REPRESENTATION TO REG 18 DRAFT DUDLEY LOCAL PLAN

in respect of
Land at New Hawne Colliery, Halesowen

on behalf of
Marlie Civils Ltd

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1. INTRODUCTION

- 1.1. This is a representation to the Regulation 18 Draft Dudley Local Plan which is subject to consultation until 22 December 2023. It is made on behalf of Marlie Civils, in respect of their land at New Hawne Colliery, Halesowen. The site falls entirely within Dudley Borough.
- 1.2. Considerable background work has been undertaken by Marlie, who are committed to the regeneration of the existing Colliery buildings, which are Grade II and II* listed. The remainder of the site is currently affected by a Site of Interest for Nature Conservation (SINC) designation, and the site has had a blanket TPO designation, although there is no evidence that this continues to be the case.
- 1.3. Marlie have commissioned ecology and tree surveys, and following early conversations with the council, some work has been undertaken to secure the listed buildings.
- 1.4. Marlie have also commissioned an architect to work up plans for a commercial scheme to regenerate the colliery buildings site and bring them back into active use. In connection with this, the applicant has engaged heritage consultants to advise on an appropriate strategy for their development. Further, Marlie have commissioned an intrusive ground conditions survey and a summary of findings have already been provided.
- 1.5. The landowners had previously put forward a residential development at the site, however, following pre application comments, the applicants have decided to change approach and are now progressing with a commercial scheme.
- 1.6. The following document covers a number of policies and paragraphs in the plan which are considered to be relevant to Marlie Civils and/or the site they are promoting. Marlie reserve the right make further representations in due course. It should be noted that not commenting on an aspect of the emerging plan does not mean they agree with that content.
- 1.7. The remainder of this representation document is as follows:
 - Representation
 - Conclusion

2. REPRESENTATION

- 2.1. We consider that as a previously developed site, New Hawne Colliery presents a unique opportunity for new employment land to be delivered as part of the regeneration of the listed buildings, and the landowners are seeking a further allocation on the adjacent former colliery land, where it would have the lowest impact in ecology and arboricultural terms.
- 2.2. In addition to policy specific remarks, we would also comment that within the policies map, it is difficult to identify and differentiate between designations, particularly where there are multiple impacting a specific site or area due to overlapping lines. We would encourage the Council to investigate an interactive version, in keeping with other local planning authorities.
- 2.3. The following table summarises the policies that we have commented on in this representation:

Table 1 – Part One Policies/Paragraphs subject to comment:

Policy/Para	Title	Page
DLP10	Delivering Sustainable Housing Growth	107
DLP18	Economic growth and job creation	145
DLP23	Social value	160
DLP27	Edge-of-Centre and Out-of-Centre Development	175
DLP31	Nature Conservation	192
DLP32	Nature Recovery Network and Biodiversity Net Gain	198
DLP33	Provision, retention and protection of trees, woodlands, Ancient Woodland, and Veteran trees	204
DLP55	Historic Character and Local Distinctiveness of Dudley	293
DLP57	Listed Buildings	302
DLP69	Transport Impacts of New Development	333

Table 2 – Part Two Policies/Paragraphs subject to comment:

Policy/Para	Title	Page
Table 6.1	Dudley Housing Site Allocations	230

Part One: Spatial Strategy and Policies

Policy DLP10 Delivering Sustainable Housing Growth

- 2.4. Given that 96.4% of the proposed allocations are on brownfield land and just 3.6% of the supply on greenfield, we would question whether these developments will be able to deliver the infrastructure requirements stipulated elsewhere given the likely viability constraints impacting these sites. Whilst we support the 'brownfield first' approach, we consider that where possible, those allocations should be made larger to improve their viability.
- 2.5. We also note that there has been a lapse rate allowance of 10% discounted to allow for some sites which may not come forward over the course of the plan. We would like to know whether this

truly represents the historic lapse rate pattern, as we are aware of a substantial number of sites within Dudley Borough that have not come forward because of persistent viability problems associated with heritage, site contamination and other issues which include tensions between commercial/industrial land values being similar to those of residential (post-remediation). We are not clear whether this has been considered carefully enough.

Policy DLP18 Economic growth and job creation

- 2.6. The supporting paragraph 9.16 states that 47ha of employment land need within Dudley cannot be met solely within the Borough. As such, whilst we support efforts to deliver employment growth, it is evident that the policy does not go far enough and does not allocate enough sites to meet the need of the Borough. The policy relies on a Statement of Common Ground with neighbouring authorities to deliver Dudley's unmet need, but given the collapse of the Black Country Plan, we are concerned at the likelihood of this coming forward.
- 2.7. Additional sites are available, such as Land at New Hawne Colliery, which could be allocated as an Employment Opportunity Site.
- 2.8. We also consider that the policy should include more explicit reference to support for windfall sites, given the current under delivery baked in to the draft policy.

Policy DLP23 Social value

- 2.9. We support the aims of this policy. However, greater detail should be provided to give details specifying what measures should be taken to give greater certainty for applicants, should details be requested at application stage. We also suggest amended wording to paragraph (1) of the policy to avoid the need for this to be provided at application stage. These measures would be better implemented at conditions stage when it is more likely an occupier will be in a position to deliver these benefits/employment strategy.

Policy DLP27 Edge-of-Centre and Out-of-Centre Development

- 2.10. We welcome an exemption for smaller 'main town centre uses' in edge or out of centre locations. However, we would question what justification is behind the threshold of 280sqm, above which a Sequential Test and Retail Impact Assessment will be required. As this is such a specific figure, it is likely that some evidence has been provided to justify this but we cannot locate it.

Policy DLP31 Nature Conservation

- 2.11. We are supportive of measures to safeguard nature, but paragraph (1) is worded in such a way that would prohibit any development where there is any harm to designated sites at paragraph 1a and 1b. Whilst paragraph 3 does allow harms to be weighed against the benefits of a development, the first part of the policy does not reflect this. We would suggest paragraphs 1a and 1b be amended to reflect the exception at paragraph 3.
- 2.12. We consider that a more flexible approach should be adopted, particularly on sites such as New Hawne Colliery. The site is not a Site of Special Scientific Interest and is regularly subject to anti-social behaviour leading to damage to the site, including fly-tipping, fires, trespass and graffiti. This is despite the landowners efforts to secure the site.
- 2.13. Surely, in this case, the better approach would be to pragmatically look at how the site would benefit from management and longer-term protection, as well as improved public access and improved and more diverse landscaping and planting, and the introduction of specific artificial habitats such as bat and bird boxes.

- 2.14. The council are aware that the colliery buildings are host to bats, and yet this has not prevented this part of the site being proposed for residential development. However, this starting point appears to have been 'preventative' for the remainder of the colliery to the north. To that end the landowners will be providing a more holistic ecological walkover survey to demonstrate where development could go within the site, whilst not significantly undermining its verdant character and quality, nor its habitat potential.

Policy DLP32 Nature Recovery Network and Biodiversity Net Gain

- 2.15. We would encourage the Council to keep this policy under close review to ensure it reflects emerging national requirements to avoid any conflict.

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

- 2.16. We support measures to protect trees, particularly ancient woodland and veteran trees.
- 2.17. However, the policy should be amended to reflect the reality that tree removal is sometimes required to facilitate development proposals. Presently, the policy (in particular paragraph 3) is worded such that tree removal will only be permitted in accordance with footnote 15)that the tree poses a risk to property or the public). This is clearly not a tenable position.
- 2.18. For instance, at the Former New Hawne Colliery, many of the trees are lower category groups and their loss would be more than outweighed by the public benefits associated with the creation of new jobs.

Policy DLP55 Historic Character and Local Distinctiveness of Dudley

- 2.19. Paragraph 190 of the Framework states that: *"Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account: a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation; b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring; c) the desirability of new development making a positive contribution to local character and distinctiveness; and d) opportunities to draw on the contribution made by the historic environment to the character of a place."*
- 2.20. Rather than simply listing the many different types of heritage assets, for which "attention should be paid", we consider that the policy should be amended to place greater emphasis on supporting development proposals which bring heritage assets back into active use. More emphasis should also be placed on flexible approaches to alternative uses (viable uses consistent with their conservation) within DLP55 to take account of the above National Policy.
- 2.21. It is our view that the conversion and regeneration of the buildings at the Former Colliery is capable of resulting in 'less than substantial' harm (lower end) and that the public benefits generated from the new development and securing the building long term from future damage are substantial public benefits. We would encourage the Council to amend Policy DLP55 to increase its support for this and similar proposals.

Policy DLP57 Listed Buildings

- 2.22. We support the aim of conserving and enhancing listed buildings. However, similar to our remarks in connection with Policy DLP55, we would encourage the Council to amend the policy

to place greater emphasis on supporting development proposals which bring heritage assets back into active use, better reflecting National Policy.

Policy DLP69 Transport Impacts of New Development

- 2.23. This policy requires applicants to scope Transport Assessments. Whilst not an unusual requirement, it will be difficult for applicants to adhere to since it is currently not possible to contact a highways officer at the Council. This is because the Council do not have an highway team, but outsource to Amey's, who applicants cannot contact.

Part Two: Centres and Site Allocations

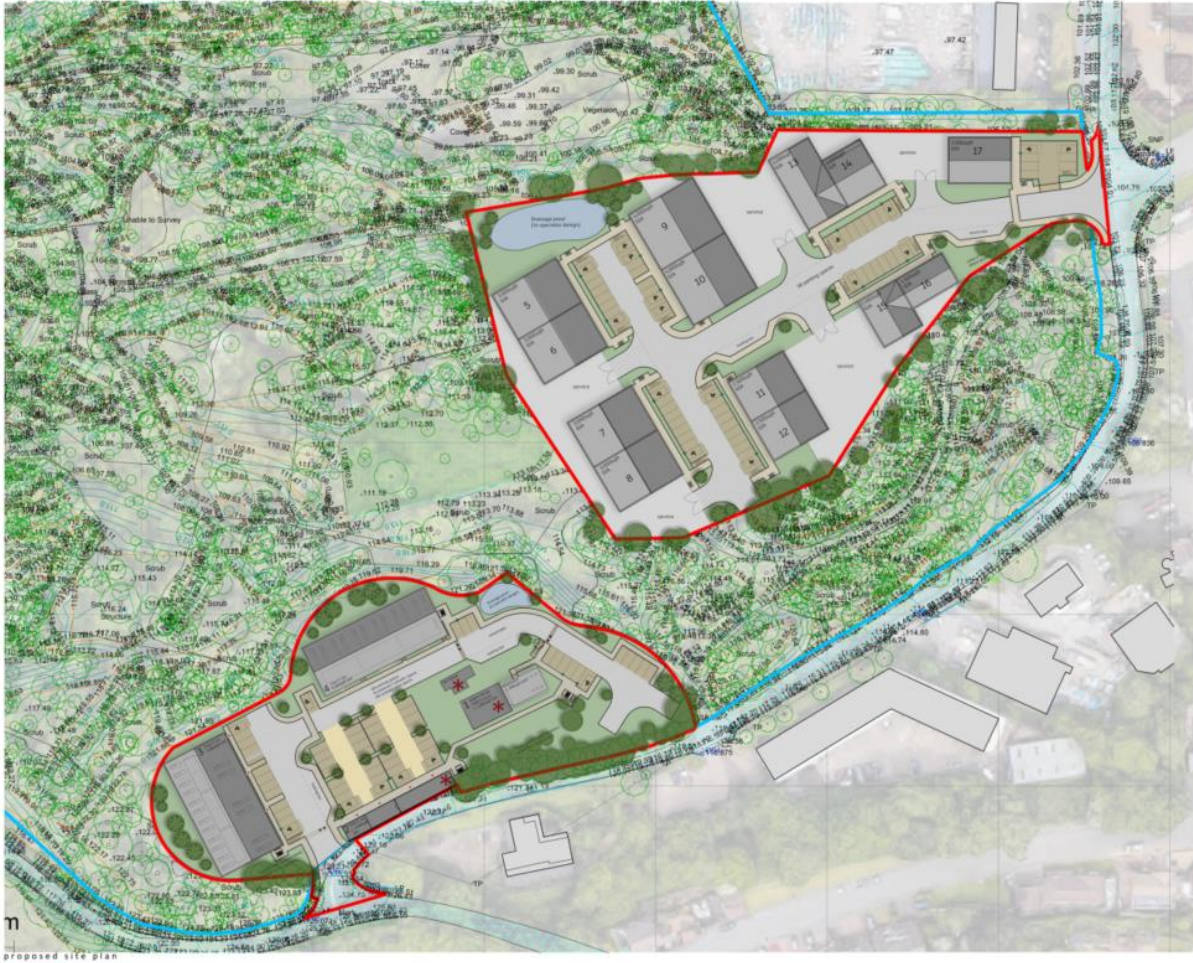
Table 6.1: Dudley Housing Site Allocations

- 2.24. The Former New Hawne Colliery is a proposed allocation under DLP reference: H046 or CFS reference: 382, for approximately 15 dwellings. This proposed allocation centres on a small parcel of land (0.63ha) surrounding the three listed buildings at the site. We welcome the proposed allocation at the site and the recognition that the site would be a suitable location for new development.
- 2.25. However, as we have made clear in previous representations, we remain concerned that additional land has not been included. The site contains two Grade II listed buildings and a Grade II* building, which have been vacant for decades. The buildings are in poor condition, as is the site more generally, having not been maintained for several years. The site will need to be extensively cleared of self-set trees and some additional buildings, which are not heritage assets. The build process will be expensive and additional land needs to form part of the allocation to ensure a viable use can be found for the site.
- 2.26. A pre application enquiry was submitted including a residential development at the listed colliery buildings and an area to the north east. The feedback raised numerous concerns, citing the Sites of Importance for Nature Conservation (SINC), Linear Open Space, Archaeological Priority Area, Area of High Historic Landscape Value, Tree Preservation Order and Coal Mining Legacy as reasons to resist development at the site. We address these points in turn:
- **Sites of Importance for Nature Conservation (SINC):** It is acknowledged that the development would result in some habitat loss, but it is important to note that most of the trees within the area proposed are low value groups, self-set following the closure of the colliery. There is also extensive Knotweed, which means large areas need to be cleared anyway. Moreover, there are opportunities for betterment within the wider site, including making area publicly accessible.
 - **Linear Open Space:** It is unclear what this refers to since the site is private land with very limited public access. If this relates to a footpath through the site close to the northern boundary, this could be kept open and as a result of the development, more area could be made publicly accessible.
 - **Archaeological Priority Area:** Given the extensive coal mining operations, it is unclear why the Council consider this to be a site specific constraint since it clearly relates to the wider area and is rarely a constraint to development in any case. A desk based archaeology assessment has been provided which confirms that the vast majority of the site has negligible potential for the presence of any buried archaeological remains of any period.
 - **Area of High Historic Landscape Value:** The former colliery is clearly an important feature, but the immediate landscape has significantly changed in the last century since its closure. The once barren landscape once had few if any trees, with wide open views of the pits, spoil heaps, existing buildings and now missing winding heads. We therefore do not agree that

development within the landscape is intrinsically harmful and argue that some tree removal to open up views of the listed buildings would be a heritage benefit.

- **Tree Preservation Order:** It is acknowledged that the development would inevitably result in the loss of protected species. However, as set out, most of the trees within the area proposed are low value groups, self-set following the closure of the colliery. There is also extensive Knotweed, which means large areas need to be cleared anyway.
- **Coal Mining Legacy:** Much of the Black Country has a coal mining legacy, this is not a reason to prevent development.

- 2.27. As set out above, we simply do not agree that many of the designations should result in an in principle objection to a redevelopment of part of the site.
- 2.28. Furthermore, within the pre application discussions, the proximity of the industrial estate to the east of the site gave officers concern in amenity terms for future residential occupiers. Moreover, internally, the Engine House has a large, open characteristic. Converting to residential use would require extensive subdivision, which would not be impossible but potentially undesirable in heritage terms. The site also has an industrial past, given its former uses. For these reasons – and the significant need for employment land in the Borough – the landowner has decided to progress a commercial development at the site instead.
- 2.29. Much like the residential proposals, the site would be split into two. Around the listed buildings, they are proposing smaller units, including light industrial, office and gym space. At the northern parcel, closer to the existing industrial estate, we are proposing an series of light industrial/industrial units. This would form a logical extension to the existing Strategic High Quality Employment Area at Shelah Road.
- 2.30. Given the significant unmet need identified for employment land, we respectfully urge the Council to allocate more land at the site. Rather than residential use, we ask the Council to consider an employment or perhaps even mixed use allocation.
- 2.31. The application documents are well progressed and it is likely that an application will be submitted early in the New Year. This shows that the site is available and deliverable now. An indicative layout has been included overleaf:



Marlie Civils

job:1846
**New Hawne Colliery
 Halesowen**

PL010
**Proposed
 Site Plan**

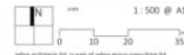
date: September 2023
 status: planning

rev: **C**

- key:
- EV charging point
 - ★ Grade II Listed building
 - Existing trees to be retained around perimeter of application site (subject to tree survey)
 - Proposed new trees
 - Existing trees outside of proposal site

Accommodation Schedule:

Upper plateau	
building 1 (existing)	
plus proposals:	2,250sqft
no. annual use beds:	
building 2 (existing):	8,500sqft
building 3 (proposals):	7,600sqft
building 4 (proposals):	6,450sqft
Sub-total: 21,050sqft office/retail use	
Lower plateau	
building 5 (proposals):	3,300sqft
building 6 (proposals):	3,350sqft
building 7 (proposals):	3,350sqft
building 8 (proposals):	3,350sqft
building 9 (proposals):	4,000sqft
building 10 (proposals):	4,000sqft
building 11 (proposals):	2,300sqft
building 12 (proposals):	2,500sqft
building 13 (proposals):	3,200sqft
building 14 (proposals):	2,000sqft
building 15 (proposals):	2,000sqft
building 16 (proposals):	3,500sqft
building 17 (proposals):	2,500sqft
Sub-total: 37,800sqft light industrial	



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3. CONCLUSION

- 3.1. This representation has been made on behalf of Marlie Civils, in respect of their site at New Hawne Colliery, Halesowen. We commend the Council for conducting the Regulation 18 Consultation so quickly following the collapse of the Black Country Plan. We also welcome the proposed allocation on part of the site.
- 3.2. However, it is clear that the Plan does not go far enough in seeking to deliver sufficient employment land, for which there will be a significant shortfall. To address this, the Council are reliant on Statements of Common Ground with neighbouring authorities, which are not agreed presently and given the collapse of the Black Country Plan, there is some uncertainty around this.
- 3.3. However, the land at the Former New Hawne Colliery is available now and could go some way in meeting this need. Whilst the site has ecology and landscape designations, it is previously developed and there is a clear opportunity for a wider cohesive development to bring the listed buildings back into active use.
- 3.4. The landowners have spent considerable sums investigating all manner of technical matters at the site (ground conditions, ecology, highways, landscape, drainage and trees). Evidence will be available shortly to demonstrate how the site can be delivered in a sustainable way. A development of this site would in turn, reduce the pressure on (for instance) areas of Green Belt on the periphery of the Borough.
- 3.5. We have made comments on more generic planning policies where we consider it is justified, and we urge the Council to consider the points we have made.

