

Our Ref: P1086/JP/hr
Date: 28th November 2024

Planning Policy Team
Dudley Council
Council House
1 Priory Road
Dudley
DY1 1HF

BY EMAIL ONLY: planning.policy@dudley.gov.uk

Dear Sir / Madam

Dudley Local Plan Regulation 19 Consultation Response by Barberry Summerhill Limited

Harris Lamb Planning Consultancy is instructed by Barberry Summerhill Limited ("**Barberry**") to submit representations to the Draft Dudley Local Plan (Regulation 19 consultation document) and welcome the opportunity to comment at this time.

These representations are submitted in accordance with the current National Planning Policy Framework ('The Framework') that was published in December 2024. However, the Council will be well aware that the Government have recently concluded consultation on revisions to the Framework. The draft Framework includes transitional provisions that would apply should the Plan be submitted for examination prior to or within 1 month of publication. We understand that the Framework is due to be published before Christmas. As such, it is debatable whether the plan will be examined under the current Framework or the new Framework. As well as the transitional arrangements the draft Framework includes significant changes to Green Belt policies as well as the application of the standard method. Should the Council have to calculate its housing requirement using the updated standard method this would result in a significantly different figure to the one currently being promoted. Clearly, without second guessing what the final version of the Framework says and when it is published, should it be relevant to the preparation of the plan we would welcome the opportunity to work with the Council to resolve any issues that it may unearth and particularly if further land for housing is required as a result.

Barberry are promoting land for residential development at Swindon Road, Wall Heath, Kingswinford (referred locally as the Triangle site) and have previously submitted details of the site to the preparation of the Black Country Plan and previously representations to the Black Country Plan Preferred Options consultation that concluded in October 2021.

The land at Swindon Road, Wall Heath, Kingswinford ("**the Site**") had been proposed as a strategic housing allocation in the Preferred Options Black Country Plan under Policy DSA2. The Site was proposed to be removed from the Green Belt and allocated to accommodate approximately 533 homes. Barberry clearly supported the Black Country authorities' intention to allocate the Site for housing and submitted representations in support of the Site's suitability

BIRMINGHAM
0121 455 9455

STOKE-ON-TRENT
01782 272555

NOTTINGHAM
0115 947 6236

WORCESTER
01905 22666



to accommodate residential development. A Delivery Document was prepared that sought to demonstrate how the site could come forward and meet the policy requirements set out in the Preferred Option Plan. However, following the abandonment of the Black Country Plan the Site is no longer identified as a draft allocation and has been omitted from the Dudley Local Plan in its entirety.

The omission of the Site from the Plan is a result of a wider change in strategy that the Council is now advancing, which seeks to focus new development on previously developed land within the urban area. As part of the preparation of the new Local Plan the Council is no longer proposing to release land from the Green Belt to meet its development needs and, further to this, the Council are no longer considering the release of their Green Belt land as an option to meet its housing need, favouring exporting the problem to other yet undefined locations in the Housing Market Area (“HMA”). The current National Planning Policy Framework (“**The Framework**”) states there is no requirement to review Green Belt boundaries when plans are being prepared, but it continues to allow authorities to choose to subject to demonstrating exceptional circumstances. However, it does place more of an onus on Councils to instigate this process and the weight of responsibility that comes with this should not be underestimated.

Where it is identified that Green Belt needs to be released to meet the development needs identified, on the one hand it requires an understanding of the potential environmental impacts that could come from changing Green Belt boundaries, on the other the social and economic disadvantages of meeting the housing and / or economic needs identified. These being real impacts on local people and local business, who will suffer if the needs are not met. In this instance, we consider not delivering the housing need identified will have substantial social and economic impacts for thousands of people and we ask the Council to very carefully consider the impact on these people when deciding whether or not to amend their Green Belt boundary, especially when there are sites that make a limited contribution to the Green Belt that could be released to meet this need.

Barberry, therefore, object to the proposed strategy on the basis that the Council has not explored all the options available to meet the housing need and that it has land available in its administrative boundary to meet its identified housing need, including sites that it has previously supported as draft residential allocations in the Black Country Core Strategy review. We consider there are exceptional circumstances that warrant the Green Belt being reviewed and land released from it to help meet housing needs, which include the substantial social and economic impacts for thousands of local people and businesses.

The Framework still sets out at paragraph 60 the objective of significantly boosting the supply of housing with the overall aim to meet as much of an area’s identified housing need as possible, including with an appropriate mix of housing types for the local community. Paragraph 61 of the Framework states that to determine the minimum number of houses needed, strategic policies should be informed by a local housing needs assessment conducted using the standard method. Indeed, it is debatable whether the strategy advanced by the Council will meet the identified need arising in Dudley in terms of delivering sites that are capable of being developed to meet the need that exists, noting that the majority of new homes required are 3 and 4 bedroom properties and not 1 or 2 bedroom apartments.

Paragraph 60 goes on to conclude that in addition to any local housing need figure, any needs that cannot be met within neighbouring authorities should also be taken into account in establishing the amount of housing to be planned for. There is significant pressure across the HMA from constrained authorities who cannot meet their development needs within their administrative boundaries, with tens of thousands of homes and hundreds of hectares of employment land needing to be found. The number of authorities able to assist with this overspill in the HMA are limited and the evidence suggests they cannot be relied upon when the numbers they have proposed in their emerging plans to assist with addressing the overspill do not even scratch the surface. Consequently, where authorities have the land available, we consider they should be using this unless there is an overwhelming persuasive reason as to why that land should not be developed, with the argument that 'it is Green Belt land' not standing up to scrutiny, when it is inevitable that most of the overspill would need to be on land currently designated as Green Belt if the development needs identified are going to be met.

Further to the above, we consider that not only should Dudley be meeting its own housing need, but that it should also be assisting with meeting the overspill from other authorities, such as Birmingham, Sandwell and Wolverhampton, with whom it has a strong functional relationship and that it can provide the land in the locations to help meet the overspill from these authorities close to where the need is arising. We acknowledge that these residents might not fall in your administrative boundary, but when so many people stand to suffer from the lack of land to meet the development needs identified we would implore the Council to not allow administrative lines to stand in the way of helping these people. Accordingly, Barberry have strong reservations about whether the Council's intended strategy is sound. The tests of soundness remain in the updated Framework as set out in paragraph 35. As it stands, Barberry consider that the Plan is not positively prepared in that does not meet the area's objectively assessed needs and is not informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development. In light of the failure to identify where and how the Council's unmet needs are to be met we do not consider that the Council has met the duty to cooperate.

Below, we start by explaining why we consider Barberry's Site should still be identified as a residential allocation in the plan, address the concerns raised in the representations to the Black Country Core Strategy Review. We then provide our comments on the draft policies.

Proposed Housing Allocations – Land at Swindon Road, Wall Heath (The Triangle Site)

Barberry are objecting to the Pre-Submission Draft Plan on the basis that the land at Swindon Road, Wall Heath (the Triangle site) has been omitted as a draft housing allocation, when it has previously been supported by the Council as a draft housing allocation in the Black Country Core Strategy Review and in the context of the significant pressure for authorities within the HMA to meet their own development needs and assist those who cannot wherever possible.

The inclusion of the Site as a draft allocation in the Black Country Core Strategy Review confirmed that in principle the Site was capable of being allocated for development and delivering new housing development to meet the needs of Dudley. Whilst the Black Country

Plan has now been withdrawn the previous assessment work of the site and the conclusions drawn that led it to be included as a draft allocation cannot be discounted and indicate that the site is suitable for development.

We have reviewed the consultation responses to the Preferred Options Black Country Plan and note the level of objections received to this and the other sites proposed to be released from the Green Belt. A list of the general points made in response to the draft allocation are set out in the Summary of Consultation Responses report published by the Council alongside the draft Local Plan consultation. These can be summarised as:

- Lack of existing infrastructure and amenities to cope with additional dwellings.
- Concerns over the existing road network and increased traffic.
- Loss of Green Belt.
- No exceptional circumstances to release Green Belt land.
- Detrimental impact on ecology and biodiversity.
- Loss of Grade 2 and Grade 3 agricultural land.
- Development would result in increased pollution in terms of air, noise and light particularly during construction.
- No economic benefit to the area and impact on house prices.
- Cumulative impact of other developments in the area.
- Brownfield first approach should be taken.
- General concerns regarding flood risk, global warming, heritage and landscape impacts.

Whilst the summary comments are not all specifically directed at the Triangle site a number of the comments that were made were attributable to the draft allocation.

We note the volume of representations, but we also note that both Barberry's expert project team (see the Vision Document and Delivery Document (attached) prepared to set out our initial assessment and to respond to the draft criteria in the allocation policy during the preferred option consultation respectively) and the Council's expert consultees have reviewed the technical and environmental matters relevant to this Site, and concluded that the site was deliverable in this context, with measures proposed through the site allocation and the wider policies in the plan that would ensure this was the case when a planning application was submitted.

The loss of Green Belt is the other factor raised in the objections. As highlighted above, the release of Green Belt is not unique to this Site. The land outside the urban area in Dudley is all Green Belt and the same is true for the authorities surrounding Dudley with potential capacity to meet its development needs. Discussions with these authorities will not lead to the concerns around the loss of Green Belt land being resolved. It will just change the location of where Green Belt is being released. The reality is that the only way to address the objection that Green Belt land should not be released is to not meet the development needs identified for Dudley or the wider HMA, and not provide the homes and jobs needed for local people.

Turning to the comments received and general areas of objection raised Barberry respond as follows:

- Existing infrastructure - an assessment of existing capacity in local GPs, schools, use services and sewage and water facilities would have been undertaken as part of the

development. If this highlighted that there was a lack of capacity or that the proposed development would place additional demands on existing provision then the developer would be required to mitigate the impact of the development through physical provision of new infrastructure or payment of developer contributions. The impact of the development could be mitigated through such an approach and thus the concerns regarding adverse impact on infrastructure are unfounded. Existing shortfalls in service provision in the local area are not as a result of the proposed development and it would only be the additional demand that any development would need to mitigate.

- Impact on highway and increase in traffic - the proposed development would have resulted in an increase in traffic on the local highway network although the additional impact that this would likely to cause was not considered to be severe. Whilst there may have been localised impacts at specific junctions surrounding the site it is considered that through a scheme of off-site highway improvement works that the impact of this could have been mitigated to an acceptable level. Assessment of accidents in the local area did not indicate that there was a specific highway safety issue that would be exacerbated by the proposed development. Similarly, additional development could have resulted in the provision of enhanced or additional public transport services brought about by an increase in demand from the new population. This would benefit existing residents as well as new residents of the development.
- The site is located in the Green Belt albeit that it is bound by development to the north and south by built development and is bounded to the west by the A449 creating a strong defensible boundary. The role that the site plays in Green Belt terms is limited and it is contended that its removal from the Green Belt would have limited impact on the overall function of the Green Belt. In seeking to redevelop the site it would be opened up to greater accessibility and creation of site public open space and the provision of new footways and cycleways through the site. The site would therefore have greater accessibility than it currently offers.
- In light of the case presented above about the need to release Green Belt land to meet the Council's housing need, particularly in light of the wider issues in the HMA and the inability of other authorities to meet their housing needs in full Barberry consider that there are exceptional circumstances to consider the release of land from the Green Belt. As it stands, the Plan is effectively stating that adjoining authorities will have to release land from the Green Belt to meet Dudley's needs or that if Green Belt is not released needs will have to go unmet.
- An initial ecological survey had been undertaken which did not identify any significant constraints that would prevent the development of the site. The site is of such a size that it is considered feasible that biodiversity net gain could be delivered on site without impacting on any protected species.
- In respect of agricultural land, this has not been assessed at present so it is not clear if the objections of the loss of Grade 2 and 3 quality agricultural land are founded or not. Notwithstanding the quality of the land, the site does not form part of a traditional farmstead as it is divorced from the main farm and surrounded by built development. The location does not make it easy to get equipment onto the site nor make it convenient to get machinery from the main farm to the site. The location and its divorced relationship from the main farmstead mean that the land is not a good location to farm. Either way, Barberry's

view is that the need to accommodate the Borough's housing needs outweighs the loss of agricultural land.

- Issues relating to noise, air quality and light pollution are matters that can be controlled during the construction process and through the detailed design of the end scheme. As such we do not agree that they are in principle reasons that would prevent the development going ahead.
- The development of up to 533 houses would have significant economic local benefits in terms of construction jobs during the construction phase as well as the use of goods and services in the local vicinity and the wider area involved in the construction of the dwellings. Furthermore, during the construction process local shops and services would benefit from the construction workforce in the area. Following the completion of the development local shops and services would benefit through additional footfall and resident population in the vicinity of the facilities. It is a generally well regarded principle that a residential development would have significant economic benefits to the area. In addition, new housing will assist with overall affordability of housing and provide greater choice for those wanting to either make their first purchase or move up or down the ladder.
- In respect of the impact on Kingswinford the proposed allocations in and around Kingswinford are as a result of available land rather than necessarily needing or wanting to direct too much development to this part of the Borough. Clearly, the area is attractive to local residents and would provide the opportunity to deliver much needed family housing particularly larger 3 and 4 bedroom properties where the demand in the Borough lies.
- The emerging Local Plan has a brownfield first strategy albeit that in promoting such a strategy it is unable to identify sufficient land to meet its housing need in full. As such, if the full housing needs of the Borough are to be met then some greenfield land is required in order to meet this. The brownfield first approach will not result in the housing needs of the Borough being met hence why we are promoting a greenfield site as a proposed housing allocation.
- In respect of the other matters including flood risk, global warming, heritage, landscape and general design considerations these are matters that we consider could be dealt with through the planning application process and would not present an in principle reason as to why the site should not be allocated.

In light of the above, the objections raised to the inclusion of the site in the Preferred Options Black Country Plan are matters that do not present an in principle objection to the development of the site. Whilst clearly there was a significant level of objection to the draft allocation and the matters raised are in Barberry's view capable of being addressed through the allocation and planning application process.

Notwithstanding the above, the site had been identified as having an indicative capacity of 533 dwellings, with a policy compliant level of affordable housing which would make a significant contribution to addressing the identified shortfall in housing in the Borough. The delivery of affordable housing being a significant benefit of releasing Green Belt sites, due to the abnormal costs associated with delivering the previously developed sites that make up nearly the entire supply identified by the Council.

Barberry is the sole promoter of the Site and have an agreement with the landowner to bring the Site forward for development. As an experienced developer and promoter, once allocated, planning permission would be sought, and once obtained the Site would be brought to the market and disposed of. The Site has already attracted interest from housebuilders indicating that it is an attractive proposition and would be capable of delivering houses early in the plan period. The Site remains deliverable, achievable, and suitable, and should be identified as a draft allocation in the Plan.

As the plan is currently not included in the Plan Barberry object to its omission and consider the Plan unsound on the basis that it is not positively prepared nor effective.

To address our concerns we contend that the land at Swindon Road, Wall Heath (the Triangle site) should be included as a housing allocation with a capacity of 533 dwellings.

We set out our comments on the remaining policies of the Plan below.

The Vision for Dudley Borough by 2041

The Vision for Dudley sets out a number of areas that the Council wish to see achieved through the delivery of the Local Plan. These include making Dudley an attractive and desirable place to live, work and visit, having strong, inclusive resilient and thriving communities which enhance health and social wellbeing and providing a wide range of housing that will meet people's needs through their various life stages and is affordable to live in. We are generally supportive of the Vision in that it is aspirational and seeks to deliver the development needs of its residents over the Plan Period. We particularly welcome the intention to deliver a wide range of housing that will meet people's needs. Barberry supports the vision set out in the Plan.

Objectives and Strategic Priorities

Table 4.1 sets out the Council's strategic objectives and priorities. We note Objective 1 is the conservation and enhancement of a natural and built environment including the strategic priority of addressing the climate and ecological emergency. We also welcome Strategic Priority 4 of fostering economic growth and investment and Strategic Priority 6 of creating thriving neighbourhoods by providing new and affordable homes in range of sizes, types and tenures to meet the Borough's housing needs. Similarly, we welcome Strategic Priority 7 that seeks to deliver the resources, infrastructure and services to support growth. Barberry generally support the Objectives and Strategy Priorities of the Plan.

DLP 1 Development Strategy

Policy DLP 1 sets out the Council's targets for the delivery of new homes and employment land. In respect of new dwellings 10,470 new homes are proposed along with the development of at least 22.6 hectares of employment land. Barberry have significant concerns about the proposed development strategy and specifically around how the Council intends to meet its housing needs over the Plan Period. We also have similar concerns in respect of how its employment land needs will be met and we set out our detailed comments on these points below.

In respect of the Borough's housing target the policy sets out that the Council will deliver at least 10,470 net new homes over the Plan Period. Paragraph 5.12 confirms that the local housing need for the Borough is in fact 11,169 homes as calculated by the Standard Method. Paragraph 61 of the Framework confirms that Councils should use the standard method as the starting point for establishing a housing requirement for the area. It goes on to state that there may be exceptional circumstances that justify an alternative approach to assessing housing need. The Council are not claiming that there are exceptional circumstances that warrant divergence away from the use of the standard method. As such, it must be concluded that the housing requirement is 11,169 dwellings. However, the Plan identifies a shortfall of 699 homes that are required but where sufficient capacity within the Borough to accommodate has not yet been identified. Paragraph 5.13 confirms that *"As a result, the Council continues to work constructively with neighbouring authorities to help provide as much certainty as possible about how and where the borough's full housing and employment land needs will be delivered"*.

The spatial option that the Council have decided to pursue seeks to focus on meeting the development needs of the Council on previously developed sites within the urban area, use of low quality open space and through duty to cooperate discussions meaning that the Council will be looking to the other authorities in the HMA to accommodate its unmet need of 699 dwellings. Barberry object to this approach and do not consider it sound.

If the 699 dwellings are to be accommodated in adjoining authorities this would likely result in those authorities immediately adjoining Dudley, which also have significant areas of Green Belt, having to release land from their Green Belt in order to meet Dudley's needs. If land has to be released from the Green Belt in order to meet the development needs it is Barberry's view that Dudley should be looking at opportunities within its own administrative area first, including land in its Green Belt in order to accommodate this, before looking to its adjoining neighbours. If adjoining authorities take the same viewpoint as Dudley and decide that they also do not need to release land from the Green Belt, housing needs arising from Dudley and across the HMA are not going to be met.

The Plan does not elaborate on the Council's decision not to release land from the Green Belt to meet its needs particularly when the Plan highlights that there is a shortfall of what is needed against what land is available to accommodate this need. Barberry consider this to be a short-sighted approach particularly when land is available albeit it is in the Green Belt, which could help meet the Council's housing needs over the Plan Period. This point is particularly pertinent when under the Black Country Plan Preferred Options version, the Council had proposed to release land from the Green Belt to meet the Council's needs as well as the unmet needs arising in the wider Black Country authorities. Again, the Plan does not provide clear or sufficient justification for the decision of the Council not to release land from the Green Belt nor why this unmet need should be met elsewhere when there is sufficient suitable land available within the Borough to meet these needs. Furthermore, whilst the current Framework does not require Green Belt to be reviewed, it does state that it can still be reviewed in exceptional circumstances. Barberry contend that exceptional circumstances exist that warrant a review of the Green Belt. These include:

- worsening affordability as demand outstrips supply,
- worsening delivery and provision of affordable housing,
- increased homelessness
- Worsening overcrowding and living conditions,

- Increased pressure on private rental sector with associated issues of unsecure tenancies and susceptibility to rent increases,
- Increasing ageing population with resultant increase in demand on social and health care services,
- Economic impacts on the working age population as those adults who are able to work may not have suitable accommodation to live in thus resulting in increased commuting distances, worsening impacts on congestion and air quality, and
- The inability to attract workers into the HMA could have significant repercussions for the wider economy if the right type of houses are not available for those wanting to live and work in the conurbation.

The land at Swindon Road, Wall Heath, Kingswinford was identified as a draft allocation in the Black Country Plan Preferred Options as a strategic housing site capable of accommodating 533 dwellings. Clearly at some point, the Council considered that the Site was suitable to accommodate residential development sufficient for it to be identified as a draft allocation. The Site was considered suitable and deliverable and Barberry remain of the view that it should be included as a draft allocation in the Plan. In allocating the land at Swindon Road, Wall Heath, it could potentially reduce the shortfall in housing that is required but unable to be currently accommodated in the Borough leaving only a further 166 dwellings to be found on other sites in Dudley. We set out above why we consider that the Site is suitable for development and why it should be allocated as a site for housing in the Borough Plan.

In addition to the shortfall in housing land that the Borough Council is currently unable to accommodate there is also a shortfall in the amount of employment land that is needed but which sufficient land has not been identified in order to accommodate the employment requirements going forward. Paragraph 5.12 confirms that the EDNA establishes a need for 72 hectares (98 hectares including replacement of employment land losses) of land for employment development although there is an anticipated supply of just 22.6 hectares resulting in a shortfall of 50 hectares (increasing to 76 hectares if including replacement of employment land losses). The Plan goes on at paragraph 5.13 to confirm that unmet employment land need will be provided across the Greater Birmingham and Black Country HMA, the Functional Economic Market Area (FEMA) and other areas with which the Borough has a physical or functional relationship. The Council is, therefore, looking to accommodate its housing and employment needs outside of its administrative area via agreeing with adjoining authorities for them to make land available to meet Dudley's needs. Barberry do not consider this to be a sound approach for similar reasons as to those set out above in respect of meeting its housing needs. Barberry contend that Dudley has suitable land available within its own administrative area albeit it is in the Green Belt and that the Council should be considering the suitability of this land for development first rather than asking its neighbouring authorities to meet its needs and potentially to release land from its Green Belt in order to do so.

The issue of unmet housing need arising across the HMA and how this will be addressed is a key issue that the Plan will need to address. Whilst the Dudley Local Plan identifies a relatively modest shortfall in housing land there are wider issues specifically arising in Sandwell and Wolverhampton that may compound the issue of where and how housing need is met. Sandwell Council has recently consulted on its Pre-Submission Draft Local Plan which identifies a shortfall of 15,916 dwellings that the Council need but which are unable to accommodate within its own administrative area. Wolverhampton have also recently taken a report to its Cabinet seeking approval to go to consultation on its Regulation 19 plan. The

Council has a shortfall of 10,398 dwellings. Both Councils have stated that they will be looking to its adjoining neighbours, of which Dudley is one, in order to see whether their need can be met outside of their administrative areas.

Furthermore, Birmingham City Council has now commenced a review of its Local Plan and consulted on Issues and Options for a draft Plan concluding in December 2022 and more recently undertook Regulation 18 consultation concluding in August 2024. The Regulation 18 Plan advised that the Standard Method housing requirement for the period 2020 to 2042 is 149,180 dwellings. The Plan stated that a supply of 103,027 dwellings had been identified leaving a shortfall of 46,153 dwellings.

Dudley, in seeking to meet part of its unmet need by reaching agreement with adjoining authorities in the HMA will, to a degree, be competing with other authorities that also have a much more significant shortfall to meet and which have less land, including Green Belt land to meet this. This reinforces Barberry's view that the Council should be doing all it can to meet its needs in full in its administrative area even if it means releasing land from the Green Belt to do so. By meeting all its development needs within Dudley this would reduce the wider pressures within the HMA on other adjoining authorities to help meet the unmet needs arising principally in Sandwell, Wolverhampton and Birmingham.

Barberry consider policy DLP1 unsound on the basis that it is not positively prepared, not effective and not consistent with national policy. As drafted, significant housing need will go unmet leading to a wide range of social and economic problems associated with the lack of suitable and affordable housing for residents of the Borough. Similarly, the failure to address the shortfall in provision of housing at the HMA wide level will only add to those significant housing pressures that many in the conurbation already face.

In order to address our concerns the Council should review all sources of available land within the Borough including Green Belt land to identify sufficient land so that it can meet all of its housing needs within its own administrative area. In doing so, it will reduce pressure on other authorities in the HMA to make land available for those authorities that have a larger unmet need and greater need for land for housing than Dudley do. In reviewing the Green Belt, the land at Swindon Road, Wall Heath, should be removed from the Green Belt and allocated for housing development.

Policy DLP 3 Areas Outside the Growth Network

Part 5 of the policy confirms that the Council's Green Belt boundaries will be maintained and protected from inappropriate development. In light of the comments, we have set out in respect of policy DLP 1 above Barberry object to this approach on the basis that maintaining the Green Belt and seeking to direct growth to only previously developed sites will result in housing need being unmet and a shortage of employment land being delivered through the Plan unless the Council is able to agree with other authorities in the HMA for them to accommodate some of this unmet need. As noted previously the Council had intended to release land from the Green Belt when preparing the Black Country Plan in order to not only meet Dudley's needs but contribute to meeting the wider needs of the HMA. Barberry reiterate that the release of land from the Green Belt within Dudley will help ensure that Dudley is able to meet its housing requirement of 11,169 in full within its own administrative areas without having to resort to its adjoining neighbours. The decision to not release land from the Green Belt to meet Dudley's needs in full will have a number of adverse consequences for the supply

of new homes and particularly the delivery of affordable homes, making the aspiration for home ownership beyond the reach of many who live in the Borough.

Barberry object to the Plan and consider it unsound on the basis that it is not positively prepared nor will it be effective and that by not reviewing the Green Belt to meet the Council's housing needs in full within its own administrative areas will result in a number of problems associated with lack of adequate housing, housing affordability and knock on economic impacts arising from a lack of working age people able to live and work in the Borough.

To address our concerns we contend that a review of the Council's Green Belt should be undertaken and sufficient land released, including land at Swindon Road, Wall Heath, and to be allocated for additional housing development.

Policy DLP 8 Health and Wellbeing

The policy requires that residential developments of 150 dwellings or 5 hectares will be required to provide a Health Screening Impact Assessment as part of the planning application. Barberry acknowledge that significant residential development such as that being promoted at the Triangle site in Kingswinford, has the ability to make significant contributions to the health and wellbeing of new and existing residents alike. This can be principally through the provision of areas of public open space and recreational amenities on site, including measures to make active travel by the provision of new footway and cycleway and the provision of on-site facilities such as new allotments or community orchards. These measures would not all be possible on previously developed sites within urban areas and, therefore, the benefits of identifying larger strategic greenfield sites, such as the Triangle site, could actually have a positive impact on the health and wellbeing of residents for the Borough.

Whilst Barberry support the benefits to health that may arise from new development we object to the requirement to having to submit a Health Screening Impact Assessment for each development. Such a requirement is not effective and will create limited benefit as a result of having to produce it. The requirement should be deleted.

Policy DLP 10 Delivering Sustainable Housing Growth

We have set out above our comments in respect of the proposed housing requirements and the Council's strategy for meeting the housing need within its own administrative area. Notwithstanding this approach there is still a shortfall of 699 dwellings that are required but which sufficient land is yet to be identified to accommodate these homes.

Putting the shortfall aside we have a number of concerns about the sources of housing land supply that the Council sets out in Table 8.1 of the Plan.

In respect of sites with planning permission or prior approval it is not clear whether a non-implementation allowance has been applied to this source of supply. Typically, a 10% non-implementation allowance would be applied to such sites.

Table 7 of the SHLAA also identifies potential supply from occupied employment sites albeit that a 15% non-implementation allowance has been applied to this source. It is noted that reliance on redevelopment of existing employment sites was a key theme for delivering new

houses through the adopted Black Country Core Strategy. However, the intended strategy was not wholly successful as issues relating to the release of multi-ownership employment sites did not result in significant new residential development coming forward. Furthermore, retention of employment sites in employment use proved commercially as viable, if not more viable, than developing for residential use. The outcome being that a number of employment sites that had been earmarked for residential development remained, and continue to remain, in employment use. It is questionable whether the same reliance on existing employment sites to deliver new residential development in the current Plan would have resulted in a different outcome. As such, the application of only a 15% non-implementation allowance seems on the low side and that a much higher non-implementation allowance should be applied. Due to the uncertainties associated with this source of supply coming forward and making any meaningful contribution to the supply of housing there is an argument to say it should be removed completely from the potential supply of new homes.

A windfall allowance of 184 dwellings per year has also been allowed for. Whilst the Framework confirms that where an allowance is made for windfall sites as part of the anticipated supply there should be compelling evidence that they will provide a reliable source of supply. The windfall allowance that has been allowed for equates to nearly 25% of the total housing requirement which is a significant proportion of the overall supply that is expected to come forward on non-allocated sites. It is also noted that the windfall allowance is on top of the supply that is also identified on occupied employment land sites and other sites within town centres and the regeneration corridors.

In respect of occupied employment land sites such as those identified in Brierley Hill there is again a question mark over whether these will come forward and specifically when they will come forward for development. Whilst Table 8.1 indicates that these would not start contributing to the supply until 2028 there is no certainty that this source of supply will contribute to the overall supply of housing.

Table 8.1 also includes a centre uplift allowance which accounts for a number of sites increasing the density of development that that site is capable of accommodating. Whilst in theory this may be possible there is a question mark over whether this would actually deliver as intended. Due to the uncertainty that this will occur and the limited contribution it makes to the overall supply this element of the supply should also be removed.

A further source of supply is from a redevelopment of offices in Brierley Hill waterfront. This has been included on the basis that office demand has decreased following the Covid pandemic and that the office capacity would be available for redevelopment for housing through the plan period. More recently, there has been a slew of announcements from companies publicly stating that they want their employees to return to the office. There is a degree of uncertainty over whether existing offices will be available for redevelopment in the volumes that are envisaged and as such it cannot be guaranteed that the element of supply would be deliverable. If it did take place this would be considered a windfall and doesn't need to be identified as a separate source of housing in the supply.

Totalling up all the sources of supply in Table 8.1 equals 10,470 homes. This is the same number as the proposed housing requirement set out in the Plan. The Plan does not propose to over-allocate against the housing requirement in case for whatever reason certain sources of the supply do not come forward as expected. As it stands, all sources of the supply would have to come forward to meet the housing requirement (albeit there is still a shortfall of 699

homes against what is actually needed). This risks the housing requirement not being met in full if sites do not come forward as anticipated and we have set out above there are a number of risks with certain elements of the supply that may not deliver as intended.

Clearly, if the Council were to over-allocate against the housing requirement this would identify additional sites for housing that could meet the Standard Method housing requirement that the Council are currently stating that they cannot meet in full. As it stands Barberrry are concerned that the sources of supply that have been identified would not be sufficient to meet the housing requirement as proposed and that due to various reasons relating to non-implementation or delivery of certain sites/sources of supply there would be a shortfall in supply against the housing requirement. In order to address this, additional land should +be made available to protect against any non-implementation that may occur.

Barberrry object to policy DLP10 on the basis that it is not effective and not consistent with National policy and if adopted in this form will result in significant additional housing need going unmet beyond the 699 homes that the Council are currently not planning for.

To address our concerns, Barberrry contend that additional sources of supply of housing land should be identified to supplement or replace the questionable elements of the supply we have identified above and to allocate additional sites such as the land at Swindon Road, Wall Heath as additional or alternative residential allocations.

Policy DLP 11 Housing Density, Type and Accessibility

The policy specifies the density and type of new housing that should be provided, with new housing development to be informed by the need for a different type and range of size of accommodation, levels of accessibility and the need to achieve high quality design. The policy then goes on to state that developments of 10 or more homes should provide a range of house types and sizes and that developments of 10 or more homes should achieve the density target set out within the policy. These range from 100 dwellings per hectare on sites that are within strategic centres or town centres, down to 45 dwellings per hectare where a site is accessible for a high density housing site or 40 dwellings per hectare for a moderate density housing development. In seeking to achieve the density targets set out above we note the evidence contained in the Dudley Housing Market Assessment (2024). This sets out the size of housing required within each tenure within Dudley for owner-occupied, rented, shared ownership or social rented / affordable rented properties. What is clear is that for all 4 of these tenures nearly 50% of the properties are required to be 3 or 4 bedroom properties. It is, therefore, highly debatable whether sites of 10 or more dwellings would be able to deliver the full range of dwellings required and the density specified within the policy. Three or four bedroom dwellings tend to be houses as opposed to apartments and would therefore deliver a much lower density development than a wholly flatted scheme.

Similarly, if high density development is to be achieved then this is likely to be comprised of 1 and 2 bedroom apartments and would not therefore deliver the full range of housing that the policy seeks. Focusing on delivering apartment led development will also curtail the delivery of affordable housing as RPs are less inclined to take on units in mixed tenure blocks.

Whilst it is noted that a range of densities are proposed in different parts of the Borough the Dudley Housing Market Assessment is clear that there is a significant demand across all

tenures for 3 and 4 bedroom properties. If this need is to be met then sites in town or strategic centres, where a significant proportion of new development is proposed to be focused, are unlikely to deliver the larger properties that are required. This reinforces Barberry's view that the range of different sites are required in order to help meet the housing needs of the Borough going forward.

A further consideration in seeking to achieve the density assumption set out in the policy also relate to meeting other aspirations and policy objectives in the Plan. This could include provision of open space, achieving high quality design and incorporation of National Described Space Standards and accessible homes along with sufficient car parking on site. A combination of these and other policy considerations can, and will, impact on the density of development that can potentially come forward on sites. If all these are to be met on sites the amount of land required to do so will need to increase.

Barberry object to Policy DLP11 on the basis that it is not effective and will not result in the majority of housing needs, which are predominantly for 3 and 4 bedroom properties, being met. Meeting the actual housing needs of those in the Borough in need of a home appears to have been sacrificed for higher density flatted development where the actual need is for family housing. Barberry do not consider that sufficient land has been identified to meet these density targets whilst also at the same delivering a number of other policy objectives and aspirations such as POS, car parking and accessible homes.

To address Barberry's concerns we are seeking the identification and allocation of a wider range of suitable sites for housing which can deliver a range of larger family housing, including affordable housing on site. The land at Swindon Road, Wall Heath is one such that can deliver a full range of dwelling types of different sizes and tenures including affordable housing.

Policy DLP 12 Delivering Affordable, Wheelchair Accessible and Self Build / Custom Build Housing

The policy sets out the thresholds for providing affordable housing on different value zones throughout the Borough. It is not clear where the basis for the different thresholds has been derived from although it is assumed that this is down to the viability of specific sites in these areas being able to accommodate affordable housing.

The policy stipulates that on greenfield sites, of medium value zones, 20% affordable housing will be sought. It is noted that of the new allocations proposed in the Plan only 3.5% of the supply is on greenfield land. As such, there is very limited prospect that much affordable housing will come forward on these sites. Furthermore, the requirement to provide 10% affordable housing on previously developed sites on all sites in lower value zones and brownfield sites in medium value zones is likely to raise issues with the viability of such sites being able to deliver this. On unviable sites it will reduce the ability of developers to deliver affordable housing leading to affordable needs going unmet.

We note that the Triangle site in Kingswinford, which is located in a higher value area, is relatively unconstrained and is a greenfield site. In light of the lack of constraints affecting the site it would be one such site that could potentially deliver a policy compliant level of affordable housing (30%) making a significant contribution to the overall needs of the Borough. The provision of affordable housing in an area that is well related and highly accessible to the countryside and the opportunities that this offers for residents is considered a significant

benefit in contrast to providing affordable homes in town or strategic centres that are less accessible to the countryside.

The site would also be capable of delivering houses of different types and tenures rather than high density apartment schemes. Again, this would help meet identified needs as set out in the Dudley Housing Market Assessment.

In respect of National Wheelchair Accessibility Standards Barberry object to the differentiation in the requirement to provide wheelchair accessible houses according to the different value areas that the proposed houses are to be built in. A wheelchair user in a low value area would have the same requirement for a wheelchair accessible house as a wheelchair user in a high value area. Wheelchair users are not therefore going to be solely located in high value areas and their needs would need to be accommodated irrespective of the value area that the house was to be built in. In differentiating between brownfield and greenfield sites and the proportion of accessible dwellings to be provided on each, it must be recognised that larger accessible homes require more land to accommodate them. As such, if this is the objective greenfield sites will not be able to accommodate development at the same density as brownfield sites.

In light of the fact that the Plan seeks to differentiate the delivery of wheelchair accessible properties between lower and high value areas indicates that the Council acknowledge that delivery of wheelchair accessible properties will have an impact on the viability of these developments. The inference being that there is an additional cost involved and that this can only be sustained where a higher land value can be sustained from the development. If this is the case then additional sites in higher value areas should be allocated in order to deliver the policy requirements that the Council is seeking.

In respect of self build properties paragraph 8.20 confirms that there are currently 83 individuals on the self build and custom build register for Dudley. If each of these individuals were to construct a house it would equate to 0.76% of the total housing requirement for the Borough. The policy suggests that sites of more than 100 dwellings 5% of dwellings should be made available for self build or custom build housing. Barberry consider that a 5% requirement is in excess of the actual numbers of people on the self build register which is set out above equates to less than 1% of the total housing needed. Barberry suggests that a 1% requirement on sites of 100 or more housing would be a more appropriate figure.

Barberry object to policy DLP12 on the basis that it's not effective and not consistent with national policy. The rationale for requiring different levels of wheelchair accessible housing according to the land value that can be achieved ignores the fact that people requiring a wheelchair accessible house do not all live in higher value areas. Similarly, the justification for differential affordable housing thresholds acknowledges that delivery of affordable housing is more likely in higher value areas. If this is the case, then Barberry contend that more sites, such as the land at Swindon Road, Wall Heath, should be allocated for development and which would be capable of making a policy compliant affordable housing contribution. Finally, the requirement to provide self build plots as part of new residential developments of more than 100 dwellings overstates the demand for self build within the Borough. A lower percentage would be appropriate and would likely satisfy the demand for self build.

As such, the changes that Barberry are seeking are the removal of the requirements for different accessible housing requirements across the Borough and a reduction in the self build requirement from 5% to 1% on schemes of more than 100 dwellings.

Policy DLP 32 Nature of Recovery Network and Biodiversity Net Gain

Following the enactment of the Environment Act there is now a statutory requirement to achieve 10% biodiversity net gain through new developments. This is now a statutory requirement irrespective of the need to appear in a Development Plan policy. Notwithstanding the above, we note that policy DLP 32 sets out a requirement that all development shall deliver a minimum of 10% net gain. As this is now a statutory requirement under other legislation we do not consider this is necessary in the policy.

The policy also sets out that biodiversity net gain should be provided with a preference to deliver it on site but acknowledging there may be instances where an off-site contribution has to be made if it is not possible to accommodate it within the development boundary. Whilst every effort would be made to achieve the requisite 10% gain on site the ability to do so is entirely dependent on the nature of the habitat that is present on site and which would be lost through new development. The achievement of biodiversity net gain on site, or through an off-site contribution, has the potential to affect the deliverability of development sites. This is because if biodiversity net gain is to be achieved on site this could reduce the amount of land available for development. Conversely, if a financial contribution was required off site, this would need to be paid irrespective of whether any other developer contributions were sought by the Council. This could have a direct impact on scheme viability in that there would only be a set amount of money available to deliver biodiversity net gain which could be at the expense of meeting other developer contributions. An applicant cannot choose to not meet its statutory obligations to deliver biodiversity net gain. Furthermore, there is no viability clause in the legislation that says if delivery biodiversity net gain would cause development to become unviable then it is not required. Meeting and delivering biodiversity net gain will have to take priority due to its statutory nature. This requirement could, therefore, have implications for the payment of other developer contributions particularly where viability of development is marginal.

Barberry object to Policy DLP32 on the basis that it repeats in policy matters (the 10% requirement) that are dealt with by other legislation. Barberry contend that this should be deleted from the policy.

Policy DLP 39 Design Quality

Barberry have a number of concerns with the policy particularly where there are overlapping forms of control such as Part 1D which refers to Secured by Design, which is now covered by Part Q of the Building Regulations. As both are covered in other legislation we query why it is necessary to include it within a policy in the Plan.

Part 4 of the policy states that all new residential development will be required to meet the Nationally Described Space Standards ("**NDSS**"). The PPG is quite clear that Councils need to gather evidence first to determine whether there is a need for additional standards in their area and justify setting up appropriate policies in their Local Plan. No evidence appears to have been published alongside the Pre-Submission Draft Plan that sets out why all new properties are required to meet NDSS.

Notwithstanding whether there is evidence to require the provision of all new dwellings to accord with NDSS if the requirement were to be applied this would have a number of significant

implications for the Council. Firstly, NDSS means larger houses have to be built in order to comply with the standards. This would mean the density of development would decrease and the number of houses that can be delivered on land identified on housing will decrease. The decrease will result in fewer homes being delivered within the Borough and thereby decreasing the supply of housing and potentially resulting in housing need going unmet. A further consequence is this could place additional pressure on adjoining authorities in order to have to make up an even larger shortfall of housing that is needed in Dudley but which cannot be accommodated within the area.

Delivering NDSS could also potentially have implications on scheme viability particularly when this is taken into account along with remediation costs, design quality, provision of open space, achieving biodiversity net gain and achieving energy efficiency targets. In seeking to achieve all of these policy objectives could have an adverse impact on scheme viability that would restrict the delivery of new homes in the Borough.

Barberry object to Policy DLP39 on the basis that the policy is not justified in that the Council has not produced proportionate evidence to demonstrate why all new housing should accord with NDSS.

Until such time as there is evidence of the need for housing to accord with NDSS is provided the requirement should be omitted from the policy.

Policy DLP 42 Energy Infrastructure

Barberry object to the requirement that residential development of 10 or more homes must include opportunities for decentralised energy provision. Whilst in principle the idea of centralised energy provision is helpful, in reality the delivery of it from a private housing development makes it impractical. Particularly, where individual family homes are proposed as opposed to a single multi-apartment block where there might be a case for including it. As such, we do not consider that such schemes are feasible or deliverable and that any provision should be optional based on the developer's objectives rather than a requirement for all new development.

Barberry consider the policy is unsound because it is not justified in that the Council have not provided sufficient and proportionate evidence as to why all developments of 10 or more dwellings should include provision for decentralised energy provision.

Policy DLP 47 Renewable and Low Carbon Energy and BREEAM Standards

We note the requirement in Part 3 of the policy that major developments creating 10 or more homes must incorporate the generation of energy from renewable or low carbon sources sufficient to offset at least 20% of the estimated residual energy demand of development on completion. It is not clear on what basis the requirement for a 20% energy reduction has been based on and it seems an arbitrary figure without any justification. Whilst Barberry are supportive in principle of new development achieving energy reductions and sustainability we consider that building regulations are the most appropriate way of securing energy reduction targets. Building regulations are constantly updated and will ensure that new development is able to achieve the requisite energy reduction standards in place at the time of construction. Building regulations are, therefore, more responsive to changes in Government and national

policy whereas the Local Plan policy would be static until the Local Plan was reviewed. The policy is a duplication of control with other legislation and as such it is considered unnecessary.

Barberry object to Policy DLP47 on the basis that it is not justified and that proportionate evidence is not presented that requires 20% of estimated residual energy to be generated by renewable sources. Barberry also consider that the policy seeks to duplicate control of this matter with building regulations. As such, we contend that this requirement should be deleted from the Policy.

We trust you will take our comments into consideration. We wish to participate in the Examination Hearing Sessions and look forward to being notified of these in due course. Should you have any questions about the above or wish to discuss please do not hesitate to contact either Sam Silcocks or myself.

