**Part C: Representation**

(Please fill a separate sheet for each representation you wish to make)

**Q1. To which part of the document does this response relate?**

|  |  |  |  |
| --- | --- | --- | --- |
| **Title of document** | Dudley Local Plan Pre-Submision Draft Plan (Reg 19 version) | | |
| **Paragraph/section** |  | **Policy** | DLP32 |
| **Site** |  | **Policy Map** |  |

*Responses can address any of the Supporting Documents and Evidence by relating them to the resulting paragraph, policy or site in the Dudley Local Plan.*

**Q2. Do you consider the Local Plan is:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 1. | Legally compliant | X | Yes  X | No |
| 2. | Sound |  | Yes | No **X** |
| 3 | Complies with the Duty to co-operate |  | Yes | No **X** |

*(Mark as appropriate)*

Please refer to our guidance notes for help with the above definitions - 1 to 3.

**Q3. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible.**

**If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.**

**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.

*Continue on a separate sheet if necessary.*

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| Respondent No: |  | Representation No: |  | Date received: |  |

**Q4. Please set out the modification(s) you consider necessary to make the Local Plan legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at Q3. above. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why each modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.**

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.

*Continue on a separate sheet if necessary.*

***Please note:*** *In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.*

*After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he or she identifies for examination.*

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**Q5. If your representation is seeking a modification to the plan, do you consider it necessary to participate in examination hearing session(s)?**

**No,** I do not wish to participate in hearing session(s)

X **Yes,** I wish to participate in hearing session(s)

***Please note,*** *that while this will provide an initial indication of your wish to participate in hearing session(s), you may be asked at a later point to confirm your request to participate.*

**Q6. If you wish to participate in the hearing session(s), please outline why you consider this to be necessary:**

As a promotor with a significant land holding within the Borough that would largely address the Council’s housing shortfall we would welcome the opportunity to present our case in person to the Inspector .

***Please note,*** *the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate in hearing session(s). You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.*

***Representations cannot be kept confidential and will be available for public scrutiny, including your name and/***

***or organisation (if applicable). However, your contact details will not be published.***

Completed representations forms can be submitted by emailing: [**planning.policy@dudley.gov.uk**](mailto:planning.policy%40dudley.gov.uk?subject=)

Please enter **Dudley Local Plan Representation** in the subject field of the email.

Alternatively, completed consultation forms can also be submitted by post to: **Planning Policy, Planning Services, Dudley Council, Council House, Priory Road, Dudley DY1 1HF by 5pm 29 November 2024.**

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