

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 Part One		
Paragraph/section		Policy	Policy DLP10 – Delivering Sustainable Housing Growth
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 | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |
| 2. Sound | <input type="checkbox"/> | Yes | <input checked="" type="checkbox"/> | No |
| 3. Complies with the Duty to co-operate | <input type="checkbox"/> | Yes | <input checked="" type="checkbox"/> | No |

(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.

Objection.

Our concerns are expressed elsewhere in these representations in respect of the way the spatial strategy of the Dudley Local Plan (DLP) is framed, the extent to which at the outset it properly acknowledges the scale and character of development need, the ways it suggests the need can be met, and the requirement to identify additional development land for housing including through Green Belt release.

In addition to these general strategic points we have fundamental concerns regarding the quantum of need identified, its distribution, and how it will be met. These concerns are set out here principally in relation to the housing requirement, but should be understood in the context of the strategic points made separately.

The concerns raised here in reference to Policy DLP10 are far reaching and point to a fundamental failing of the draft DLP to meet the tests of soundness set out in the Framework.

They consider both the quantum and distribution of housing proposed in the draft DLP in principle and then the proposed components of the draft DLP's anticipated supply in more detail.

Quantum and Distribution of Unmet Housing Need in Dudley over the emerging Local Plan period

The Framework (paragraph 61) expects strategic policy-making authorities to determine the minimum number of homes needed in strategic policies by following the Standard Method set out in Planning Practice Guidance (PPG) for assessing Local Housing Need. It also states that in addition to the Local Housing Need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.

In this respect, Paragraph 61 points directly to the “positively prepared” test of soundness (in particular) as set out at Paragraph 35 of the Framework. Plans are “positively prepared” if they provide a strategy which “as a minimum, seeks to meet the area’s objectively assessed needs; and is 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” (our emphasis). The calculation of Local Housing Need is clearly only a starting point for the housing requirement of the plan.

Policy DLP10 of the draft DLP sets out that sufficient land will be provided to deliver at least 10,470 net new homes over the period to 2041. In its justification to Policy DLP10, at paragraph 8.4, the draft DLP sets out that this will accommodate only 94% of current Local Housing Need up to 2041. In other words, the draft DLP acknowledges, at the outset, that it will fail to deliver almost the minimum number of homes needed in Dudley over the Plan period.

This is even acknowledging that LHN is a starting point minimum need, with it also important to understand how increases to this need may, for example, bolster affordable housing provision to better fully meet need, or support overall delivery or contribute to other economic objectives of the plan. We would fully expect the Local Plan to identify well in excess of the minimum need in order to allow for a choice in range and type of sites and allow for potential under delivery. Most Local Plans include a buffer provision of at least 10% provision. Not only is this plan not providing a buffer, but it is not even meeting the minimum need. A buffer of at least 10% would be the minimum additional buffer needed in Dudley given the significant concerns in respect of allocation deliverability set out elsewhere in these representations. DLP10 should in this context plan for additional allocations to meet the minimum need.

In addition the LHN should be increased to boost affordable housing provision. Elsewhere the plan and these objections recognise that viability often affects the delivery of infrastructure in Dudley. It also affects the ability for sites to deliver affordable housing. The need for affordable housing is significant. If realistic assumptions are applied to affordability against gross income (where there are significant other pressures on household income in the current economic climate), then affordable housing needs in Dudley could be upwards of 390 dwellings per annum if 25% of gross housing income is spent on housing costs. This is acknowledged within the HMA Update. These levels of affordable housing will not be met given challenges to viable delivery of housing, such that a greater number and range of sites well above LHN is needed in order to address affordable housing needs.

Further, this fails to grapple with un-met need from neighbouring Authorities which is known and where Dudley may well offer opportunities to actually accommodate a greater level of growth, assisting in meeting the needs of neighbours rather than seeking to export its own needs elsewhere. This is set out elsewhere in our representations but questions the housing requirement of the plan where there is no evidence of any certainty on wider unmet needs.

Paragraph 8.4 then continues to say that 97% of the anticipated housing supply is on brownfield land with just 3% on greenfield land. The Plan states that a balanced range of sites has been provided in terms of size, location, and market attractiveness and we do not believe this to be the case.

Notwithstanding its failure by some margin to meet its identified minimum LHN, the draft DLP does not offer a solution as to how the sizeable shortfall (700) of the homes that are needed in Dudley, as a minimum, over the DLP period, will be made up. For example, the draft DLP gives no certainty in terms of how likely

it is that neighbouring authorities will help meet its acknowledged unmet housing need under the “Duty to Cooperate” (DTC).

The draft DLP sets out, under Policy DLP18 ‘Economic Growth and Job Creation’, that Dudley will deliver 50ha, of its identified 72ha requirement, of employment land through DTC. In other words, Dudley is asking its neighbouring authorities to deliver most of its employment land requirement. The draft DLP refers to ‘ongoing work’ to agree the level and location of its exported unmet employment need but identifies areas with strong or moderate economic transaction as the other (former) Black Country Authorities (Sandwell, Walsall and Wolverhampton), South Staffs, Birmingham, Wyre Forest, Bromsgrove, Solihull, Tamworth, Lichfield and Cannock Chase.

This raises two fundamental concerns with the draft DLP. One is how does Dudley plan to deliver its acknowledged unmet housing need (700 homes) over the draft DLP period, if it cannot demonstrate its neighbouring authorities will assist through DTC; and the second is that the draft DLP relies very heavily on brownfield sites, including currently occupied employment sites and sites previously used for employment purposes, to deliver its deficient housing requirement, which flies in the face of its identified (very) significant shortfall of employment land, which Dudley is looking at its neighbours to help deliver.

In essence, then, the extent of the reliance placed by the draft DLP on using brownfield land to deliver housing has the effect of expanding a significant exported employment requirement which it is seeking to agree with its neighbours, whilst at the same time not grappling with the need to deal with exported (or imported) housing requirement and, again, in the context of failing by some margin to meet local housing needs. This is not an appropriate basis for the DLP. This is all in the context of an LHN which is the minimum and needs to be significantly higher to promote delivery, support affordable and other economic objectives.

Any attempt that might be made by Dudley to have some of its unmet housing need met by its neighbours through DTC needs to be put into context whereby the West Midlands has struggled unsuccessfully to meet the unmet needs of Birmingham for a number of years, following the adoption of the Birmingham Development Plan (BDP) 2011 to 2031, in January 2017. On adoption, the BDP stated Birmingham had a housing shortfall of circa 37,900 homes that it needed its neighbouring authorities (including Dudley) to deliver. Similarly, in the Black Country, Sandwell has recently published its Regulation 18 draft Local Plan for the period 2022 to 2041, following the collapse of the draft Black Country Plan. Sandwell has acknowledged that it has an identified housing shortfall of 18,606 homes, which it cannot deliver. Another example is Bromsgrove, which the draft DLP says has strong Functional Economic Market Area (FEMA) links with Dudley, where the adopted Plan (2016) recognises that it has an unmet need of 2,300 homes. The Shropshire Local Plan Examination has recently had indications from its Inspectors that the Plan is likely to be found unsound.

As such, many of Dudley’s neighbouring authorities which it might need to rely on to deliver its acknowledged shortfall of housing say they are also unable to deliver their own requirement. This might explain why the draft DLP has not suggested it can demonstrate how DTC will deliver its acknowledged unmet housing needs – it is content simply to continue with the wider sub-regional buck passing and collective failure properly to plan for sufficient homes in this area. The draft DLP nonetheless needs to identify some solution and cannot simply ignore the 700 homes it has not planned for, nevermind the

additional homes above the minimum LHN which are advocated for here to meet affordable housing, economic and delivery objectives.

Similarly, the draft DLP does not grapple with Dudley meeting any of its neighbouring authorities' unmet needs through DTC, which if required would increase the number of homes Dudley needs to plan for. The collective responsibility in this regard is simply abrogated. Dudley is planning for insufficient housing, other authorities are similarly deficient in this regard, and DTC simply becomes a smokescreen for failure.

As such, the draft DLP gives rise to some very serious concerns over its inability to meet its minimum identified housing needs over the Plan period, and by some considerable margin. It does not grapple with the scale of unmet housing need it has identified and cannot rely on neighbouring authorities to deliver it. The DLP also fails to consider whether Dudley needs to contribute towards its neighbours' unmet housing needs.

Ultimately, the draft DLP fails to address in any tangible way how the minimum number of homes needed in Dudley over the DLP period can ever be delivered. As a result it fails to meet any of the tests of soundness set out at Paragraph 35 of the Framework.

Distribution of the draft DLP's Anticipated Housing Supply

Delving deeper into the draft DLP's key component sources of housing land supply, the very serious concerns raised above from the headline unmet need figure are exacerbated. In addition to the above, the components of housing land supply within Policy DLP10 are not sound and similar to Table 5.1 need to be fundamentally revisited. The sources of supply need to be critically reviewed. There is significant potential for the sites not to deliver the scale of housing anticipated within the timeframes required. Many are subject to significant constraints. They have a track record of non delivery. The scale of reliance on brownfield land is unrealistic and untested in these locations, at this scale and types of developments. They will not meet, or align with housing needs. Sites with planning permission need to be critically assessed for non delivery. Reliance on windfall is unrealistic and without justification. Demolitions are likely to be significantly higher, meaning the net requirement increases.

Table 8.1 sets out an indicative phasing for which there is no justification. The requirement should not be phased in a national housing crisis and there is no evidence to explain why a phasing of delivery would be appropriate or acceptable. In any event, the phasing should be replaced by a trajectory, for which objections have been raised elsewhere about the limited value of that provided in Appendix 4.

Draft Policy DLP10 refers to the key sources of housing land supply being summarised in its Table 8.1. The Policy goes on to say that the majority of the housing requirement, or the deficient 10,470 homes the draft DLP says it can deliver, will be delivered through sites with existing planning permission and sites it allocates for housing within the DLP. However, it also says that additional significant housing supply will also be secured on windfall sites in the urban area of Dudley. It says that the estimated net effect of housing renewal up to 2041 will be reviewed annually and taken into account in the calculation of housing land supply.

Table 8.1 sets out that the draft DLP anticipates over its planned period it will deliver homes from sources including sites under construction, with permission, new allocations, windfalls, additional capacity at Brierley Hill Waterfront and in centres, with an allowance also made for demolitions.

Detailed concerns highlighting shortcomings in the components of the draft DLP's anticipated supply as offered by DLP10 are set out as follows (numbered i – iv):

i. Deliverability of Longstanding Brownfield Sites

The draft DLP's reliance on delivery from brownfield sites (97% of housing sites) in comparison with greenfield sites (3% of housing sites) follows a long history of over-reliance on brownfield land in Dudley (and the former Black Country Authorities generally) which has ultimately failed to deliver the homes needed in Dudley, and the wider Black Country, and by some margin. It is right that emphasis is placed on making use of brownfield land, but the extent of the reliance on brownfield land within the draft DLP is fanciful, not justified with inevitably challenges of the suitability, deliverability and viability of sites for housing.

For example, the adopted BCCS sets Dudley a minimum target to deliver 16,127 homes between 2006 and 2026, which equates to 806 dwellings per annum (dpa). However, Table 7 of the adopted BCCS sets out indicative phased net targets of delivery in Dudley of 8,112 homes between 2006 and 2016 (or 811 dpa during this period), 2,670 homes between 2016 and 2021 (or 534 dpa during this period) and 5,345 homes between 2021 and 2026 (or 1,069 dpa during this period).

The Dudley SHLAA 2022/23 sets out that 9,832 homes have been completed in Dudley between 2006/07 and 2022/23 which equates to 615 dpa over the 16 years of the BCCS period to date. This represents a shortfall of 3,064 homes if measured against the annualised average minimum BCCS target of 806dpa, or a shortfall of 2,019 homes if measured against the indicative phased net minimum targets shown in Table 7 of the BCSS. By either measure, the failure to deliver the homes needed in Dudley over the BCCS period to date has been significant.

The BCCS placed great emphasis on the re-use of brownfield, often previous employment, land to meet development needs, including for housing. However, the demand for such land for employment use has remained robust, and the market has consistently shown a requirement for choice and variety in sites for residential development. The experience during the BCCS period has shown that whilst making best use of existing brownfield land within the urban area is important, a strategy that focuses too heavily on this, particularly in seeking to meet the need for residential development, will not succeed. This notwithstanding, it is just such a strategy that the draft DLP seeks to continue.

For example, noting that 2,322 of the 10,470 (or 2%) of the homes identified in the draft DLP are anticipated to come from the Regeneration Corridors, it should be noted that the Regeneration Corridors are longstanding having been identified in the BCCS which was adopted in 2011. There are a number of sites in the Regeneration Corridors which have been expected to deliver homes in the BCCS period to date and are still expected to deliver homes in the DLP period going forward, but which have so far not delivered at the rate anticipated in the BCCS, or in previous SHLAAs, or oftentimes have not delivered any homes at all to date.

Similarly, there are sites in the Brierley Hill Strategic Centre and in Dudley, Stourbridge and Halesowen Town Centres where delivery of homes has been long anticipated, but which have so far not delivered at the rates expected or which have failed to deliver any homes at all. Even the "additional capacity" identified at Brierley Hill Waterfront and from the "Centres Uplift", which whilst relatively limited in numbers (200 and

164 respectively in Table 8.1), is in addition to delivery of homes already anticipated from allocated sites within these areas – which has not come to bear.

The draft DLP recognises the challenges to delivery at brownfield sites, and occupied employment sites, and applies a 15% lapse rate to delivery from occupied employment sites in recognition of the ‘multiple delivery constraints’ that typically affect such sites, and a 10% lapse rate to delivery from other sites which have not yet started generally, reflective of Dudley’s recent lapse rates. That aside, Table 8.1 needs a fundamental review in order to more realistically assess the components of supply and apply robust discounts to reflect the obvious challenges delivery.

By contrast, the draft DLP recognises that greenfield sites will generally not be affected by such delivery constraints and are generally subject to less viability constraints, further calling into question the draft DLP’s significant over-reliance on delivery from brownfield sites.

It is important that the DLP strategy recognises and responds to this history of challenging delivery, rather than (as it currently does) simply seeking to continue an approach which has been unsuccessful in delivering the homes needed in Dudley, and the wider Black Country, during the adopted BCCS plan period to date.

The DLP must identify more sites if it is going to deliver Dudley’s own identified housing needs, rather than continuing to rely heavily on constrained brownfield sites that have failed to deliver homes needed to date and rather than relying heavily on neighbouring authorities. This will require more greenfield sites, and include some Green Belt locations.

ii. Windfall

The draft DLP’s anticipated supply also includes a sizeable windfall allowance of 2,685 homes (or 25% of the total anticipated supply) from sites which are unknown and unplanned. The way that windfall is set out, much double counts supply components and is massively over stated given that the plan is urban capacity led in any event, and all of the supply is within the urban area where windfalls are the historic source of supply already.

The supporting October 2023 Dudley Borough Urban Capacity Study justifies this level of windfall allowance on the basis that Dudley Borough is a largely urban area and therefore a high proportion of housing development occurs on small infill sites below 0.25 ha. Its Table 2 indicates the number of dwellings built on sites under 0.25 ha per annum over the last 10 years amounts to 1,792, which equates to 179 per annum over the 10 year period, which is applied to the rest of the plan period to give an estimate of future windfall development in Dudley.

Paragraph 72 of the Framework says Local Planning Authorities may make an allowance for windfall sites in their 5 year supply, if they have compelling evidence that such sites will provide a reliable source of supply and any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends.

The DLP’s reliance on historic completion rates only suggests that its windfall allowance is not in fact supported by compelling evidence that such sites will continue to provide a reliable source of supply going forward, as required by the Framework. For example, in the last monitoring year Table 2 shows that just

68 homes were delivered from windfall sites, which is significantly below the allowance assumed in the DLP.

Moreover, windfall sites are by their definition unknown and have not been identified yet. The draft DLP's heavy reliance on windfall sites, to the tune of 25% of its total anticipated supply, represents a significant over-reliance on this volatile and unplanned source of housing supply particularly given the ineffectiveness of the BCCS' strategy to date to focus and support development within the Strategic Centres and Urban Areas more generally since its adoption in 2011.

The heavy reliance on windfall further calls into question the ability of the draft DLP to deliver the homes needed in Dudley during the Plan period.

iii. Demolitions in Dudley Borough

The total net housing supply identified in Table 8.1 (amounting to the 10,470 net new homes referenced in Policy DLP10) is derived from a gross figure of 10,810 homes and deducting 340 homes from "Estimated Housing Demolitions".

The Dudley Urban Capacity Review (October 2023) sets out that Dudley's 10 year housing asset management strategy (2019) identified around 2,500 homes (some 12% of the Council's stock) that are considered not viable and are red-flagged for review for strategic investment, de-investment or demolition. In doing so it acknowledges that this may result in an overall loss in housing capacity but is subject to detailed consultation. It goes on to say that future demolition programmes will be factored into the SHLAA as and when the information becomes available.

The above is reiterated in the 2022/23 SHLAA which also sets out that 323 demolitions were undertaken in the year to March 2022.

As such, the total 360 figure for demolitions anticipated across the entire LDP period is likely to be a very significant underestimate of the number of demolitions required in Dudley over the period 2023 to 2041. If the number of demolitions does increase, or reflects more closely the 323 homes demolished per annum over the last year, this would further and perhaps substantially reduce the number of net new homes that could be delivered within Dudley during the LDP period – adding to Dudley's already acknowledged unmet housing need.

Each of the points highlighted above indicates that those housing sites that are relied upon in Table 8.1 of the draft LDP are unlikely to deliver even the 10,470 net new homes that are anticipated in the draft Plan, such that the true extent of unmet need within Dudley is likely to be significantly greater than the already substantial 700 homes the Plan suggests. They also highlight that the DLP does not set out how Dudley expects to deliver the acknowledged unmet need, notwithstanding that it is likely to be higher still than the Council acknowledges, and that neighbouring authorities are unlikely to be in a position to help deliver Dudley's unmet housing needs through DTC. Moreover, Dudley's ability to contribute towards its neighbours' own unmet needs through DTC is also not considered.

Each of these fundamental concerns indicates that the draft DLP needs to identify significantly more sites to deliver the homes needed in Dudley, and this will require additional greenfield, and Green Belt release, sites if Dudley's identified housing needs are going to be met.

Continue on a separate sheet if necessary.

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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.

The scale of housing provision is insufficient to meet needs, the sources of supply are insufficient to meet the plan requirement and the housing requirement of the plan should be significantly increased to support delivery and wider objectives.

The amount of housing being plan for does not meet need. It should be increased to at least meet this need. Further it should be increased in order to provide a buffer to ensure full delivery of housing need, because there is a high potential for many sites to not deliver or not deliver within the timeframes of the Local Plan.

The requirement should also be increased to deliver more affordable housing, where needs are high and many sites will not be viable to deliver the required affordable housing to meet needs.

The housing requirement should also be increased in order to provide the potential for meeting unmet needs from elsewhere within the HMA.

There is an undue reliance on brownfield sites within the urban area and a significant risk that the plan will not deliver the scale of housing needed. A broader range of sites is needed in order to reduce the risk of under delivery including green field and green belt opportunities which can deliver and will support full affordable housing levels.

In the same way as Table 5.1, Table 8.1 needs to be re-assessed to set out more realistic and deliverable supply assumptions from the Location/Source of Supply areas identified.

There is no justification for phasing within the Plan and phasing should not be part of the housing delivery with a national housing crisis. The indicative phasing should not be part of the policy. A clear trajectory with supply sites and expected timeframes for delivery should set out the expected housing delivery, maintaining a 5 year supply.

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)

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:

The issues raised and nature of objections means that the examining Inspectors would benefit from further oral submissions being made to fully explore the topic.

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

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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