

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	Page 125	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 checked="" 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 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.

Please refer to separate sheet (enclosed).

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 draft DLP needs to identify some solution and cannot simply ignore the 699 homes it has not planned for, or indeed the c.13,000-20,000 homes it has not planned for ahead of the draft NPPF becoming operational.

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.

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.

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:

To raise concerns with regards to the fact the 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.

***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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DLP10 DELIVERING SUSTAINABLE HOUSING GROWTH

- 1.1 Overarching concerns are expressed elsewhere in these representations with 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.
- 1.2 In addition to these general strategic points there are also more detailed concerns with the specifics of the quantum of need identified, its distribution, and how it will be met. Those matters are discussed here, principally in relation to the housing requirement, but should be understood in the context of the strategic points made separately.
- 1.3 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 (paragraph 35).
- 1.4 They consider, first, 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. Additional points of concern are raised about the draft DLP's anticipated provision of housing, before a summary is set out.

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

- 1.5 The Framework (paragraph 61) expects strategic policy making authorities to determine the minimum (our emphasis) 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.
- 1.6 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 2024 – 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 6% of the minimum number of homes needed in Dudley over the Plan period.
- 1.7 Through consultation events it is inevitable that the suitability and deliverability of some or indeed many of the proposed allocations will be questioned. An already weak starting point that fails to account for almost 10% of the requirement is likely to be undermined even further through the consultation process.
- 1.8 Paragraph 8.4 of the DLP continues to say that 97% of the anticipated housing supply is on brownfield land with just 3% on greenfield land.
- 1.9 Policy DLP10 then says that the key sources of housing land supply are summarised in Table 8.1 with all housing allocations set out in DLP Part Two. It says the majority of the requirement is to be met through sites with existing planning permission and sites allocated for housing by the Plan. Additional housing supply will also be secured on windfall sites in the urban area in Dudley.
- 1.10 Notwithstanding its failure by some margin to meet its identified LHN, the draft DLP does not offer a solution as to how the sizeable shortfall (699 homes), or nearly 6% of the homes that are needed in

Dudley, as a minimum, over the DLP period, will be made up. For example, the draft DLP makes no case in terms of how likely it is that neighbouring authorities will help meet its acknowledged unmet housing need under the “Duty to Cooperate” (DTC).

- 1.11 A fundamental concern is how does Dudley plan to deliver its acknowledged unmet housing need (of 699 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. The delivery of brownfield sites is frequently a lengthy and difficult process, and there is a need to retain employment land sufficiently to ensure the balance between local jobs and housing is achieved. The emerging DLP fails in this regard. This is reflected in the low response rate of the landowner engagement exercise undertaken by the Council.
- 1.12 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, which needs to be based on evidence, and risks leading to a significant under delivery of housing (and employment) and stagnating communities.
- 1.13 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. More broadly it is noted that Lichfield District Council recently (October 2023) withdrew the local plan that had been submitted for examination in June 2022, further exacerbating the difficulties in accommodating Birmingham’s unmet need that the Black Country Authorities are currently failing to grapple with.
- 1.14 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 reference made elsewhere in these representations to the difficulties experienced by Sevenoaks District Council are also relevant here. The draft DLP needs to identify some solution and cannot simply ignore the 699 homes it has not planned for.
- 1.15 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.

1.16 To compound this issue, there is also likely to be a very considerable amount of additional unmet need from the wider conurbation as part of the Government's draft Standard Method. As set out below:

Growth Option	SM Option	Low Growth Option	SM Option	Low Growth Option	Summer 2024 NPPF	Transitional Arrangements*
Stage		Reg 18		Reg 19	N/A	Alternative Reg 19
Plan Period	2023-2041	2023-2041	2024-2041	2024-2041	2024-2041	2024-2041
Standard Method	665	605	657	616	1,594	1,394
Total Required Housing Target	11,954	10,876	11,169	10,470	27,098	23,698
Supply	10,876	10,876	10,470	10,470	N/A (likely no more than c.10,000)	(likely able to identify c.10,000)
Allocations per annum	295	295	318	318	c.300 (assumes no additional sites identified for potential allocation)	c.300 (assumes no departure from SM)
Shortfall	1,078	1,078	699	699	c.17,000	c.13,000

*Assumption that Reg 19 stage is implicated by draft transitional arrangements – i.e., the 'no more than 200 dwellings below' scenario. This assumes the Council change approach from their high-risk low-growth option.

1.17 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.

1.18 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. Unless remedied the emerging Plan risks being found unsound and failing to be adopted.

1.19 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 housing supply will 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.

1.20 Table 8.1 sets out that the draft DLP anticipates over its plan 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.

1.21 The DLP must identify more greenfield 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 the homes needed to date and rather than relying heavily on neighbouring authorities to deliver its identified needs when they are similarly constrained – including by Green Belt release.

1.22 Given 18% of Dudley is Green Belt, this will necessitate some Green Belt release.

1.23 Dudley has acknowledged that its minimum identified housing needs cannot be met if it continues to rely almost entirely on brownfield land within the urban areas. The scale of this deficiency, either on face value in the draft DLP or properly taking into account the factors discussed here which serve

to exacerbate it, contributes to the exceptional circumstances required to alter the Green Belt in accordance with Framework (Paragraph 145). Previously, as part of the now defunct Black Country Plan process the Black Country Authorities, including Dudley, acknowledged that Green Belt release would be essential in order to deliver housing growth in accordance with national planning policy. That remains the case and must be recognised by the DLP.

- 1.24 Paragraph 145 of the Framework goes on to say that *“Strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period.”* As discussed elsewhere in these representations, at this (Regulation 18) stage the Council have failed to grapple with this and the exceptional circumstances that might exist to support a change, or to formulate a realistic alternative to meet development needs.
- 1.25 With this in mind, it is important to consider that a Green Belt Review is generally regarded as a “once in a generation” occurrence whereby Green Belt boundaries should endure well beyond the Plan period. Draft Policy DLP10 acknowledges that the DLP does not identify enough sites to meet its identified LHN and in doing so acknowledges that brownfield land is constrained, but nonetheless identifies just 3% of its anticipated supply from greenfield land.
- 1.26 In the context of the comments set out above highlighting the inability of the DLP to meet a significant proportion of its requirement within Dudley’s own area, and in terms of the extent to which it has been shown that even the current limited level of provision to be made within Dudley has been overstated, there is a clear justification for identifying sites in the Green Belt for release.
- 1.27 Similarly, the inability of Dudley’s neighbouring authorities to deliver the homes needed by them (and their neighbouring authorities), is compounded where those neighbouring authorities would have to release sites from their own Green Belts.
- 1.28 As discussed above, the inability of Dudley to meet its minimum housing needs is a recurrent strategic planning issue in the Borough and sub-regionally, which requires significant and bold intervention.
- 1.29 With brownfield opportunities becoming exhausted, and in any event failing to deliver, the DLP must identify greenfield and Green Belt release sites within Dudley to meet Dudley’s own housing needs during the DLP period, and beyond.
- 1.30 As drafted the DLP raises some very serious concerns over its inability to meet Dudley’s minimum housing needs over the Plan period, and by some considerable margin. It simply does not fully grapple with the scale of unmet need it has identified. In doing so it fails to address in any tangible way how the homes needed in Dudley during the DLP period can ever be delivered and fails to meet the tests of soundness set out in the Framework.
- 1.31 It is exacerbated further still where Dudley’s neighbouring authorities lack suitable growth locations to meet their own needs, or Dudley’s unmet needs, and are in any event constrained heavily by their own Green Belts, such that they would need to release sites within their own Green Belts to meet Dudley’s unmet needs.
- 1.32 Notwithstanding the plan not planning to meet Dudley’s housing needs, there is also a distinct lack of flexibility to deliver the 10,810 gross homes identified in Table 8.1 of the draft DLP.
- 1.33 With brownfield opportunities becoming exhausted, and in any event failing to deliver, the DLP must identify Green Belt release sites to help meet its minimum housing (and employment) needs during its planned period, and beyond, and to avoid the need for another Green Belt review in the near future.
- 1.34 The concerns raised above in reference specifically to Policy DLP10 are far reaching and point to a fundamental failing of the draft Plan to meet the tests of soundness set out in the Framework.

- 1.35 In terms of a remedy for these shortcomings, at a basic level, Policy DLP10 requires amendment to identify significantly more deliverable and developable housing sites and to achieve that Green Belt release sites must be identified.
- 1.36 However, and crucially, the draft Plan fails to address in any tangible way how the minimum number of homes needed in Dudley during the DLP period can ever be delivered, and this exacerbates the very serious shortcomings within Dudley and the Black Country generally. This is a recurring strategic planning issue and requires significant bold intervention including a step-change in approach to avoid the new homes that are needed in Dudley being unprovided over the DLP period.
- 1.37 This is a fundamental point. The DLP must do everything possible to meet as much of its minimum requirement as possible within Dudley. It must also demonstrate convincingly how it will ensure any remaining requirement will be taken up. As drafted, it fails resoundingly on both counts.
- 1.38 Moreover, the draft DLP includes a 15% discount of housing supply from allocated sites on occupied employment land in recognition of the 'multiple delivery constraints' typically affecting such sites – raising questions as to whether these sites in the anticipated housing supply are truly viable, suitable or developable for residential use.

Deliverability of Longstanding Brownfield Sites

- 1.39 There are acknowledged constraints to delivery from brownfield sites, and of former and occupied employment sites in particular. 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 not justified given the parallel failure to plan sufficiently for employment land locally and the inevitable challenges to the suitability, deliverability and viability of the sites for housing.
- 1.40 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).
- 1.41 The Dudley SHLAA 2022/23 sets out that 10,616 homes have been completed in Dudley between 2006/07 and 2023/24 which equates to 625 dpa over the 17 years of the BCCS period to date. This represents a shortfall of 3,077 homes if measured against the annualised average minimum BCCS target of 806dpa. The failure to deliver the homes needed in Dudley over the BCCS period to date has been significant.
- 1.42 The Black Country Core Strategy (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. Additionally, it is known that previously developed land is often better suited to employment development, as these employment areas are well distributed within the urban areas close to existing and future housing development and accessible by public transport. 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. Proper recognition is also not given to the fact that employment activity can also make best use of brownfield land – indeed, employment is often better suited to such sites. The current approach is one which includes proposed residential activity on land in or well suited to employment use, only to

decant the employment requirement elsewhere. That should not be acceptable – more land needs to be allocated within Dudley for residential and employment use.

- 1.43 For example, noting that 2,322 (previously 2,053) of the 10,470 (or 22%) 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.
- 1.44 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.
- 1.45 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.
- 1.46 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.
- 1.47 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.
- 1.48 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.

Windfall

- 1.49 The draft DLP’s anticipated supply also includes a sizeable windfall allowance of 2,576 homes (or c.25% of the total anticipated supply) from sites which are unknown and unplanned. The supporting October 2024 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 184 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.
- 1.50 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.
- 1.51 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.

- 1.52 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.