



PLANNING COMMITTEE

28 November 2024

REPORT OF HEAD OF PLANNING & BUILDING CONTROL

Response to Dudley Local Plan Publication Version Consultation

1. PURPOSE OF REPORT

- 1.1 To consider and agree the council's response to the Dudley Local Plan Regulation 19 Publication Version consultation.

2. RECOMMENDATION

- 2.1 Agree the response as set out in the appendix, and authorise the Executive Director for Economy, Environment & Communities, in consultation with the Portfolio Holder for Regeneration, to submit the response to Dudley Council.
- 2.2 Authorise the Head of Planning and Building Control to amend the final responses as necessary.

3. FINANCIAL IMPLICATIONS

- 3.1 None arising directly from this report.

4. POLICY IMPLICATIONS

- 4.1 The nature of the Black Country is that the supply of land for housing, employment and other land use requirements overlap between the authorities. The four authorities are also constrained, with much undeveloped land particularly in Walsall being Green Belt. Any under or over-supply in individual authority local plans will affect the amount of land that the other authorities will have to provide in their respective local plans. It will also affect the extent to which we will be reliant on authorities outside the Black Country to contribute to meeting some of our needs through the allocation of land in their respective local plans, that is additional to that required to meet their local needs.
- 4.2 The proposals in the Dudley Local Plan therefore have implications for the ability of the Black Country to 'export' unmet need to other authorities, and the amount of land, including land in the Green Belt, that Walsall might have to identify and allocate in the Walsall Borough Local Plan. Other authorities and national planning policy have expected authorities that seek to 'export' need to demonstrate that they have sought to make as much use of suitable land within their own areas, using brownfield land first and then Green Belt.

- 4.3 National policy has changed since Walsall responded to consultation on the draft version of Dudley's plan on 30 November 2023. The publication version of the plan has been prepared in accordance with the revised National Planning Policy Framework (NPPF) that was issued in December 2023. The new government consulted in July 2024 on further revisions to the NPPF. The July 2024 version however proposes that local plans that are submitted for examination within one month of the publication of any new NPPF arising from the consultation will be required to comply with the December 2023 version, although they may require early revision once adopted. Dudley are seeking to submit their plan to meet this proposed deadline.
- 4.4 The current consultation from Dudley Council is in respect of the regulation 19 version of their local plan. This is the final version of the plan before it is submitted for examination. At regulation 19 stage, it is only possible to comment on whether the local plan is legally compliant and meets the tests of 'soundness' as set out in legislation and the NPPF.

5. LEGAL IMPLICATIONS

- 5.1 Local planning authorities are currently subject to a Duty to Cooperate with neighbouring planning authorities with regards to strategic cross boundary planning matters. The extent of engagement with neighbouring authorities will be tested as part of the examination of the respective authority local plans.
- 5.2 Local plans are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. The December 2023 NPPF sets out four tests of soundness in paragraph 35. It states that plans are 'sound' if they are.
- a) **Positively prepared** – *providing 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;*
 - b) **Justified** – *an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;*
 - c) **Effective** – *deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and*
 - d) **Consistent with national policy** – *enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.*

6. EQUAL OPPORTUNITY IMPLICATIONS

- 6.1 The Dudley Local Plan will be required to ensure the needs of all sections of the community are met.

7. ENVIRONMENTAL IMPACT

7.1 The Regulation 19 Publication Version of Dudley's Local Plan is accompanied by a sustainability appraisal and Habitat Regulations assessment which will be updated as the plan is progressed.

8. WARD(S) AFFECTED

All.

9. CONSULTEES

Officers in Planning and Building Control have been consulted in the preparation of this report.

10. CONTACT OFFICER

[REDACTED]

[REDACTED]

11. BACKGROUND PAPERS

All published.

Documents for the Dudley Local Plan can be viewed at:

<https://www.dudley.gov.uk/residents/planning/planning-policy/dudley-local-plan/>

Appendix

Dudley Local Plan – Proposed Walsall Response to Regulation 19 Publication Plan consultation

Planning Committee has previously commented on 30 November 2023 on the issues and options report (regulation 18).

As reflected in our council's response, committee expressed concern that the plan proposed a reduction in the supply of land for housing compared with that proposed in the draft Black Country Plan (BCP). The surplus of 1,151 homes relative to need over the plan period proposed in the BCP was to reduce to a shortfall of 1,076 homes. This was as a result of the intention not to allocate land that is currently in Green Belt. The BCP proposals for Dudley included the provision of housing slightly in excess of local need to contribute towards the needs of Sandwell, and to a lesser extent Wolverhampton. The draft Dudley local plan however proposed to supply less than enough to meet local needs, which means that this shortfall will need to be exported to neighbouring authorities.

The issues and options report also proposed 25ha of additional employment land compared with the 22ha proposed in the BCP. Both these figures are well below the net need of 72ha. This meant that 47ha of employment land to serve Dudley would need to be 'exported'. The supply of suitable land for employment development in Dudley is physically constrained however, so it was recommended that no concerns are raised on this topic.

The publication version of the plan proposes a similar shortfall in the land to be supplied. The stated housing shortfall has reduced from 1,076 to 699 but this is because the plan period has reduced by a year to cover 2024-41 instead of 2023-41. Dudley consider that the shortfall is allowed under the December 2023 NPPF which states that "there is no requirement for Green Belt boundaries to be reviewed or changed when plans are being prepared or updated. Authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process".

However, the December 2023 NPPF (which was published after the planning committee report) also retains the tests of soundness in paragraph 35.

On the issue, at the issues and options stage, we questioned whether the Dudley plan could be considered as being found unsound as not being positively prepared if it failed to meet the area's objectively assessed need. Whilst some statements of common ground have been agreed with neighbouring authorities in respect of housing and other matters, the agreements to date are at Black Country level as set out in the table under paragraph 3.35 of the publication plan. They do not apportion housing land specifically to meet the needs of Dudley. The agreements also do not secure the whole of the Black Country's needs.

The draft BCP had previously demonstrated that it was practical for Dudley to accommodate some unmet housing need from neighbouring authorities.

This concern remains. Whilst the draft revised NPPF that was consulted on in July 2024 proposes transitional arrangements for local plans that are submitted within one month of its publication, it proposes that such plans that reach adoption with an annual housing

requirement that is more than 200 dwellings lower than the relevant published local housing need figure will be expected to commence review at the earliest opportunity to address the shortfall in housing need.

Factoring this proposed figure in, it is recognised that the publication plan proposes an annual housing target of 616 homes. This compares with the annual local need under the current standard method of 657 homes. The proposed local housing need however would increase this figure to 1,594 homes. As such, the plan would potentially appear to not be effective, as it would defer the provision of sufficient housing to a replacement plan.

In common with the issues and options plan, the Dudley publication plan contains a large number of policies on various topics in addition to housing and employment land targets. Most of these are site-specific or are about development management. As such, they raise no direct concerns for Walsall. The plan 'carries forward' most existing site-specific proposals. Again, these are not of direct concern to Walsall. We have however made some comments below on issues that might have wider implications.

Detailed Comments

It would be helpful if the policies map included the policy numbers that relate to each of the designations, with site references for allocations.

Policy DLP1 Development Strategy

The statement "Those development needs that cannot be accommodated within the Dudley administrative area will be exported to sustainable locations in neighbouring local authority areas" would not appear to be effective. Whilst the delivery of the authority's needs may require provision outside the area, a policy cannot make proposals for development outside the area of the authority.

Policy DLP3 Areas outside the Growth Network

"6. Dudley's Green Belt boundaries will be maintained and protected from inappropriate development". The word 'boundaries' should be omitted: it is areas within the Green Belt that should be protected, not the boundaries.

Table 8.2 Accessibility Standards

The means of transport to which these relate should be stated. Are they walking, cycling, car or bus journey times?

Policy DLP12 Delivering Affordable, Wheelchair Accessible and Self-Build/ Custom-Build Housing

The policy should state that the value zones are as shown on figure 8.2 as they do not appear to be defined anywhere else.

Several policies refer to viability assessments. It may be helpful to provide standard wording to describe the circumstances when these will be required and how they should be carried out. This will provide consistency.

Policy DLP18 Economic growth and job creation.

Policy DLP21 Other Employment Areas

Policy DLP18 would have greater clarity if the text at the end was placed after clause 1 rather than being referred to in a footnote. It should state “Further land additional to the above figures will be required to replace any existing employment land that is lost to alternative uses. It is anticipated that this will include 26ha which is expected to be redeveloped for housing and other uses.”

It is not clear what is meant by the reference in clause 4e of policy DLP18 to “opportunities to enable those areas to be more open to, and inclusive of, the local communities which they serve”. It is understood that the two policies are intended to be used to allocate specific employment areas that are close to centres as locations suitable for local community-owned enterprises that cannot be accommodated within centres, and to improve links between those areas and the nearby centre. The supporting text gives an example of a tap house associated with a brewery. However, it would be difficult to restrict the use of premises to particular communities where the proposed use might otherwise be contrary to policies relating to acceptable uses on employment land. For the policy to be effective, it should only refer to specific industrial areas – i.e. those close to and well linked in with existing centres – that are identified as being appropriate for these uses on the policies map.

Clause 1 c. of policy DLP21 refers to community, entertainment, food and drink, or leisure and recreation uses. These are likely to be main town centre uses so should be located in centres rather than in edge of centre or out of centre sites as this clause and paragraph 9.47 would appear to support. We understand however that the policy is only intended to be used to allocate specific employment areas and to ensure that these uses are directed to sequentially acceptable sites where they cannot be accommodated within the respective centres.