



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

Date: 29 November 2024

By email only:
planning.policy@dudley.gov.uk

Dear Sir/Madam,

RE: DRAFT DUDLEY LOCAL PLAN 2023 - 2041 PUBLICATION CONSULTATION (REGULATION 19)

Tetlow King Planning (TKP) represents the **West Midlands Housing Association Planning Consortium (WMHAPC)** which comprises leading Housing Associations across the West Midlands. Our clients' principal concern is to optimise the provision of affordable housing and to ensure the evolution and preparation of consistent policies that help deliver the wider economic and social outcomes needed throughout the West Midlands region.

As significant developers and investors in local people, the WMHAPC is well placed to contribute to local plan objectives and the Housing Associations to act as long-term partners in the community. We welcome the opportunity to participate in the consultation for a new Local Plan for Dudley.

The following comments are made in response to the spatial strategy and policies set out in the Draft Dudley Local Plan Part One: Spatial Strategy and Policies consultation document.

The Government undertook its eight-week consultation on the National Planning Policy Framework (NPPF) between 30 July and 24 September 2024. We encourage the Council to understand any implications of the proposed changes to the NPPF on the production of this new Local Plan, including the new standard methodology for Local Housing Need (LHN). Further comments on this are provided in response to draft Policy DLP1 below.

Policy DLP1 – Development Strategy

Draft Policy DP1 proposes a housing requirement of at least 10,470 new homes over the Plan period. However, paragraph 5.12 on page 72 of the Draft Local Plan identifies a LHN for Dudley of 11,169 homes across the same period. This means the emerging Local Plan currently falls short of meeting its identified LHN by 699 homes, based on the proposed housing requirement.

It is also imperative to note that under the transitional arrangements proposed by the government, local plans that do not reach Regulation 19 stage by the time that the new NPPF is enacted would be required to take full account of the new NPPF policies, in addition to the updated LHN figures. Where a Local Plan has reached Regulation 19 stage, the annual housing requirement in the plan will be compared against the updated LHN for the authority area. If the emerging annual housing requirement in the draft Local Plan is more than 200 dwellings per annum below the updated LHN, the LPA will be required to revise its emerging Local Plan to reflect the new NPPF and the updated LHN and submit the plan for Examination within 18 months.

As part of the NPPF consultation, the Government released a spreadsheet containing the outcome of the revised LHN standard method for each authority. The proposed updated LHN for Dudley is 1,594

dpa. This figure is not considered in the Issues and Option consultation material. The consultation material proposes a housing requirement of 10,470 homes over the 17-year period between 2024 and 2041, equating to 616 dpa which leaves a difference that is far in excess of the 200-dwelling buffer set out in the proposed transitional arrangements. If the NPPF and Standard Method proposals are implemented by the Government, Dudley will need to produce a replacement Regulation 19 local plan to accord with the new policies in the new Framework and Standard Method before proceeding to examination within 18 months.

The Council should take a cautious and collaborative approach to strategic policies in relation to housing needs, supply and the Green Belt. It is essential to confirm whether the neighbouring authorities of the Greater Birmingham and Black Country Housing Market Area's ("HMA") have the capacity to accommodate Dudley's housing need shortfall before progressing with a Local Plan which could compromise the ability to meet housing needs across the wider region.

Policy DLP6 - Infrastructure Provision

The WMHAPC welcomes the Council's support for developments that would deliver the necessary infrastructure to communities. We also support the Council's approach at criterion 4, which states that in exceptional circumstances in which a proposed development cannot meet its on-site or offsite infrastructure needs where viability will be significantly impacted will need to be evidenced at early stages of engagement with the Council and a Viability Assessment would be required. Whilst the current policy wording is helpful, it is not clear on what will be the outcome will be should the Viability Assessment conclude that the development will be deemed unviable with the inclusion of infrastructure contributions. To strengthen the policy, the WMHAPC recommends that the level of financial contribution towards the provision of infrastructure should be exempt or reduced for schemes of 100% affordable housing in order to practically deliver the affordable homes without compromising on viability.

The Council should explore joint approaches and alternative funding mechanisms such as S106 agreements of neighbouring developments to aid in the improvement and development of new infrastructure of 100% affordable housing projects.

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

The current adopted Black Country Core Strategy Policy HOU3 'Delivering Housing' seeks a blanket 25% affordable housing requirement on all proposed development of 15 dwellings or more. Contrastingly, we understand that criteria 2 of draft Policy DLP12 requires developments of 10 or more to provide a minimum provision of affordable housing on a sliding scale which is as follows:

- a) On all sites in lower value zones: 10% affordable housing;
- b) On brownfield sites in medium value zones: 20% affordable housing;
- c) On greenfield sites in medium value zones: 25% affordable housing; and
- d) On all sites in higher value zones: 30% affordable housing

Given the significant need for new affordable homes in Dudley, the WMHAPC is concerned that this new stepped policy approach based on land value may lead to less affordable housing being delivered in Dudley. We appreciate that brownfield sites will likely affect viability and therefore affordable housing delivery, but evidence shows that affordable housing needs to be maximised across Dudley. In light of the Borough's considerable need for affordable housing as highlighted in the HMA (2024) of 647 dpa for the 17-year period between 2024 to 2041, the Council should avoid progressing an emerging policy that would potentially secure less affordable housing than current adopted Policy HOU3 which requires 25% affordable housing on qualifying sites.

Draft Policy DLP12, proposes a requirement of only 10% affordable housing on all sites located within lower-value zones and only 20% on brownfield sites in medium-value zones. As seen in Figure 8.2 of the Part 1 consultation document, a substantial portion of the Borough falls within these lower and medium-value designations. Given this wide-ranging application, the policy as currently drafted could significantly limit the Borough's capacity to meet the growing demand for affordable housing. The WMHAPC urges the Council to conduct robust viability assessments and, where feasible, revise criteria 2(a) of draft Policy DLP12 to increase the affordable housing requirement in these areas. By adopting

a higher threshold, the Council could make significant strides toward addressing the Borough's pressing need for affordable housing and ensuring more access to appropriate housing for residents.

It is positively noted that since the previous Regulation 18 consultation, the Council has increased the percentage of affordable housing required on greenfield sites in medium value zones from 20% to 25%. This is supported by the WMHAPC.

Criteria 5 states that affordable housing secured through developer contributions should be broken down by tenure as follows:

- 25% First Homes
- 25% Shared Ownership
- 50% Social Rent or Affordable Rent

There are ongoing concerns regarding the Council's proposal to require 25% of affordable housing on-site to be First Homes. This approach heavily restricts the delivery of other effective affordable housing products such as affordable rent and shared ownership. The WMHAPC advises against this approach and recommends that the policy is amended to reference the latest housing needs assessment. This would provide greater flexibility to address evolving housing needs over the plan period and account for site-specific considerations.

While the revised NPPF has not yet been adopted, it is important to note that the requirement for 25% of affordable tenures being First Homes has been proposed to be removed entirely by the Government. Having spoken to our members and from our own experience, many housebuilders are generally not well-positioned to deliver First Homes, and this requirement may hinder development. Some of our members have relayed that they typically offer circa 70% of market value for shared ownership / intermediate housing and housebuilders generally prefer this offering over First Homes.

It is noted that since the previous Regulation 18 consultation, the requirement for Shared Ownership provision has increased from 15% to 25%. Conversely, the proportion allocated to Social Rent or Affordable Rent has been reduced from 60% to 50%. These changes represent a shift in focus towards greater support for intermediate homeownership options.

The WMHAPC supports the increased requirement for Shared Ownership, as it represents a highly effective and sustainable housing product for housing associations. Shared Ownership has consistently demonstrated its value in enabling individuals and families to enter the housing ladder, particularly in areas where full homeownership remains unattainable due to affordability constraints.

The WMHAPC appreciates the Council's commitment to increasing accessible and adaptable housing by requiring developments of ten homes or more to include a portion of wheelchair-accessible units, where financially viable. The specified minimum targets are as follows:

- On all brownfield sites*, and on greenfield sites* in lower value zones: 20% of homes to meet the optional Building Regulations Requirement M4(2): Accessible and Adaptable Dwellings,
- On greenfield sites* in medium or higher value zones: 15% of homes to meet the optional Building Regulations Requirement M4(3): Wheelchair User Dwellings and all remaining homes to meet the optional Building Regulations Requirement M4(2): Accessible and Adaptable Dwellings.

The WMHAPC recognises the importance of accessible housing and the growing need for homes that accommodate current and future mobility needs. However, the WMHPAC have concerns that the proposed 15% target for M4(3) Wheelchair User Dwellings may challenge the viability of some developments, especially those aimed at delivering affordable housing in Dudley. The locality and topography of certain sites may struggle to accommodate M4(3) units without impacting overall feasibility and affordability. In light of this, the WMHAPC requests that the Council exercises an element of discretion when considering proposals.

Policy DLP49 - Green Belt

The WMHAPC is disappointed to read at paragraph 13.4 of the Draft Plan that the Council continues to keep the position that it will not be reviewing the Borough's Green Belt boundaries, despite its unmet housing needs.

Paragraph 146 of the NPPF (December 2023) states that before concluding whether exceptional circumstances exist to justify changes to Green Belt boundaries, all other reasonable routes for meeting its identified need for development should be considered. Paragraph 146 states that *"This will be assessed through the examination of its strategic policies, which will take into account the preceding paragraph, and whether the strategy:*

- a) makes as much use as possible of suitable brownfield sites and underutilised land;*
- b) optimises the density of development in line with the policies in chapter 11 of this Framework, including whether policies promote a significant uplift in minimum density standards in town and city centres and other locations well served by public transport; and*
- c) has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through the statement of common ground."*

The findings of the Urban Capacity Study (2023) demonstrate that if the shortfall in housing need is not able to be delivered in neighbouring authorities, then exceptional circumstances will exist for a review of Green Belt boundary as per parts a) and b) of paragraph 146 of the NPPF (December 2023).

The Black Country Green Belt Study (2023) identified 12 sites across Dudley with a 'Weak/No contribution to Green Belt purposes. Additionally, the West Midlands Combined Authority Assessment of the Potential for Additional Brownfield Land Development Capacity (2022) Report (which formed part of the evidence of the now abandoned Black Country Plan) identifies that the release of Green Belt sites across Dudley could deliver 1,117 homes.

The release of these sites would deliver the shortfall in homes needed to meet the needs of the authority's shortfall and should be viewed in the context of a constrained housing market area where significant shortfalls in housing provision and available sites are likely to persist well into the future (see our response to Policy DLP1 – Development Strategy).

Policy DLP39 - Design Quality

Criteria 3 draft Policy DLP39 references water efficiency measures of 110 litres per person per day in line with Part G of the Building Regulations for new developments. The WMHAPC suggests revising this requirement to focus on complying with the most up to date building regulations instead of specifying exact measures. This is because water efficiency standards are already addressed and enforced through Building Regulations, and planning policies should avoid replicating these standards to prevent becoming outdated due to potential changes in building regulations.

At criteria 4 of the draft policy requires a blanket application of Nationally Described Space Standards (NDSS) for all new residential developments and will apply to all tenures. The WMHAPC is concerned that the blanket application of the NDSS across all residential development, including affordable tenures, will undermine the viability of many development schemes. This will potentially result in fewer affordable homes being delivered as optional technical standards have implications for build costs and sales values, with implications in turn for development viability.

We highlight that the Planning Practice Guidance (PPG) requires local authorities to justify the need for NDSS through considering:

- ***"need*** – *evidence should be provided on the size and type of dwellings currently being built in the area, to ensure the impacts of adopting space standards can be properly assessed, for example, to consider any potential impact on meeting demand for starter homes.*
- ***viability*** – *the impact of adopting the space standard should be considered as part of a plan's viability assessment with account taken of the impact of potentially larger dwellings on land*

supply. Local planning authorities will also need to consider impacts on affordability where a space standard is to be adopted.

- **timing** – there may need to be a reasonable transitional period following adoption of a new policy on space standards to enable developers to factor the cost of space standards into future land acquisitions.”

(Paragraph: 020 Reference ID: 56-020-20150327)

In light of the above, it is not clear that the Council has provided evidence demonstrating the need for NDSS across all new developments in Dudley. If the Council continues to seek the NDSS requirement, then it must do so in line with the PPG to ensure the policy is justified and found sound at examination. It is noted that the NDSS is not a building regulation and remains solely within the planning system as a form of technical planning standard. It is not essential for all dwellings to achieve these standards in order to provide good quality living.

It is also relevant that Homes England only requires affordable homes to meet 85% of the NDSS to receive funding. For affordable housing in particular, there may be instances where achieving NDSS is impractical and unnecessary, as it may result in for example, higher rental and heating costs. Homes delivered in the current market by housebuilders are often lower than the 85% requirement. As such, the WMHAPC recommends that other quality standards should be used to determine housing quality, unless the Council can properly evidence the need for NDSS.

On sites that deliver 100% affordable housing, NDSS presents issues in that it increases the risk of financial impairment. The WMHAPC members raise that if a property costs more than it is worth, which is often the case on design and build sites that are 100% affordable and in a low value area such as Dudley, then it can cause a financial impairment, or in some cases, a loss. It is therefore imperative that schemes are able to continue to provide good quality housing but at 85% NDSS (which is the accepted position from Homes England) on sites that are delivering 100% affordable housing due to build costs. As such, NDSS can have substantial impacts on viability. If there is an increased risk of impairment, developers will be more unlikely to deliver new affordable housing.

Further Comments

As we have previously noted on the last consultation, it remains that the Draft Local Plan fails to recognise rural exception sites in meeting housing needs. The inclusion of a rural exception site policy would help to bring forward housing in constrained rural areas of Dudley to meet identified local housing needs. The WMHAPC therefore strongly encourages the inclusion of a rural exception site policy in helping to meet affordable housing needs.

Paragraph 82 of the NPPF (December 2023) requires that:

“In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this.”

Rural exception sites are an exception to inappropriate development within the Green Belt as set out by paragraph 154 of the NPPF (December 2023).

Housing Associations are well placed to aid in the delivery of rural exception sites and as set out within Planning Practice Guidance (Paragraph: 015 Reference ID: 67-015-20210524) the Council “*may wish to consider establishing or strengthening working relationships with relevant groups including*” housing associations. Bringing rural exception sites forward will assist in meeting the housing needs shortfall identified by the Draft Local Plan whilst also ensuring the housing needs of Dudley’s residents are being met.

The above comments are intended to be constructive, to ensure the policies are found sound at examination. We would like to be consulted on further stages of the above document and other publications by the Council, by email only to consultation@tetlow-king.co.uk; please ensure that the

West Midlands Housing Association Planning Consortium is retained on the consultation database, with **Tetlow King Planning** listed as its agent.

Yours faithfully,