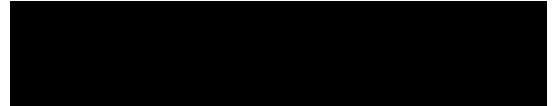




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By email: planning.policy@dudley.gov.uk

Date: 29/11/2024

Dear Sir/Madam,

Dudley Local Plan (Regulation 19) Consultation – Response by Network Rail

Background

Dudley Metropolitan Borough Council (“DMBC” / “the Council”) launched its Regulation 19 consultation to the Dudley Local Plan (“the draft Local Plan”) on 18th October 2024. The period for the new Local Plan will be up to 2041.

This letter sets out Network Rail’s response to the Regulation 19 Local Plan consultation, with comments made with reference to the soundness¹ and legal compliance of the Plan. For ease of reference, the comments follow the order of the Local Plan and identifies the relevant Plan sections, tables, policies, and page numbers.

Network Rail is a statutory undertaker responsible for maintaining and operating the country’s railway infrastructure and associated estate. Network Rail owns, operates, maintains and develops the main rail network. This includes the railway tracks, stations, car parking, signalling systems, bridges, tunnels, level crossings and viaducts.

For background, Network Rail made comments in December 2023 to the draft Regulation 18 version of the Dudley Local Plan, specifically in connection with the employment allocation proposed in the Regulation 18 Plan for the Network Rail owned 3.74 hectare brownfield site at Moor Street, Brierley Hill.

¹ As set out under paragraph 35, criteria a) to d) in the National Planning Policy Framework (December 2023).

Chapter 3 - Context of the Local Plan (pp41 to 58)

Table 3.2 (pp41 to 48) sets out the area's issues and challenges concerned with 'Homes and Communities'. Table 3.3 (pp49 to 58) summarises the area's economic issues. These tables include sections on the following matters, which are of most relevance / potential relevance to Network Rail and the operation of the railway:

- Ensuring access to local services and supporting infrastructure (Table 3.2, p44);
- Infrastructure needed to support new growth (Table 3.2, p46);
- Need for improved transport links to connect people and businesses (Table 3.2, pp47 to 48); and
- Need for improved transport links to connect people and businesses (Table 3.3, p52).

The final column of Tables 3.2. and 3.3 set out the evidence base documents that have been relied upon as part of the draft Local Plan in connection with each of the issues identified above.

There are several evidence base documents identified relating to various aspects of transport, including those prepared by Transport for West Midlands ("TfWM"). Evidence is also noted in the Local Plan as being drawn from West Midlands Rail Executive ("WMRE") in specific regard to Policy DLP67 "The Transport Network" (pp349 to 356).

In many cases, Network Rail's views are aligned with other transport bodies from a strategic point of view. However, the Plan should also specifically identify and consider Network Rail's position as a statutory undertaker. The West Midlands Strategic Advice (October 2022) represents Network Rail's long-term strategic view of how to enhance the West Midlands rail network and it is worth noting that more localised studies are also being undertaken by Network Rail, working with others in the rail industry to develop long term service proposals as well as infrastructure priorities in those studies.

To ensure the Plan is sound, including through being justified based on proportionate evidence, Network Rail requests that reference to the West Midlands Strategic Advice 2022 and emerging relevant local studies is made, with regards to the above-mentioned transport-related issues and challenges in Tables 3.2 and 3.3, and elsewhere in the Plan as appropriate.

Policy DLP14 – Housing Development, Extensions and Alterations to Existing Dwellings

The draft Local Plan proposes housing allocations adjacent to, or in close proximity to, the railway line (e.g. DLP housing sites refs: H006, H007, H033, H054, H063). Network Rail does

not object in principle to such development; it is important however that such development does not restrict existing or likely future operational rail requirements in line with the 'agent of change' principle established in paragraph 193 of the National Planning Policy Framework ("NPPF").

Policy DLP14 sets out various considerations to be applied when assessing planning applications for housing development, setting out criteria to be satisfied to enable such proposals to be approved. Criterion c of the draft Policy requires that housing development does not cause unacceptable harm to the amenities of the occupiers of neighbouring dwellings. Criterion d requires that an appropriate level of amenity is provided for future occupiers.

The rail network is acknowledged in the draft Local Plan as a key piece of transport infrastructure for the Borough, and it is therefore important that it is safeguarded to allow for its continued operation and to ensure an ability for any future changes such as increase in usage. Notwithstanding the existing criteria set out in Policy DLP14, Network Rail requests that additional reference is made in Policy DLP14 relating to the avoidance of impacts on the existing and future operation of the railway. This is so that operational requirements for the railway are safeguarded by ensuring that housing development does not impact on the railway or the ability to carry out activities reasonably necessary for its ongoing operation. This will also ensure consistency with national planning policy in terms of the agent of change principle.

Policy DLP51 – Dudley Borough's Green Infrastructure Network (pp303 to 304)

This Policy identifies the rail network as forming part of the Green Infrastructure Network (Policy criterion 1 (j)), and Part 3 of the Policy (criteria a to c) requires development to comply with the aims and roles of the Green Network and for development to complement and enhance this Network.

Some of the rail network within the Borough is covered by ecological designations, including Sites of Importance for Nature Conservation ("SINC") and Sites of Local Importance for Nature Conservation ("SLINC") which are subject to the provisions of Policy DLP31 (Nature Conservation) (pp. 212 to 214). Policy DLP31 protects these designations but does allow for exceptions to this protection where the strategic benefits of a development clearly outweigh the importance of a local nature conservation site and mitigation is provided, applying a hierarchy of minimisation, mitigation, and compensation.

Network Rail has prepared a national Biodiversity Action Plan (December 2020). This aims to strike a balance between safety, performance, and environmental outcomes. The importance of the railway for biodiversity, including in connecting habitats, is fully recognised, and supported by Network Rail. There is however a need to ensure the best balance between biodiversity objectives and the ability to maintain and improve the railway to keep it running

safely and smoothly. It is not always safe or practical to avoid all impacts on existing biodiversity features as part of this balance, and in situations where certain on-site impacts are unavoidable, Network Rail will seek to create appropriate habitats elsewhere, (in the local area where possible), to mitigate for and offset any impacts, also having regard to national legislative requirements.

To ensure consistency with relevant strategic policies for the area and in broad accordance with the approach of Policy DLP31, which will also apply to relevant future Network Rail proposals, it is recommended that Part 3 of Policy DLP51 is expanded to acknowledge that there may be exceptional circumstances, such as safety and operational considerations concerned with the functioning of the railway, where proposals will be permitted which conflict with one or more of criteria a to c in Part 3 of the Policy.

Policy DLP67 – The Transport Network (pp349 to 356)

Policy DLP67 sets out the key transport projects that will be promoted and land safeguarded (as required) in the Plan to 2041. In terms of rail, this Policy sets out:

- Wolverhampton - Walsall – Willenhall – Aldridge Rail Link;
- Midlands Rail Hub (HS2); and
- Wolverhampton – Shrewsbury Line Improvements.

Network Rail supports the safeguarding of land for these key transport projects. It should also be noted in the Plan that due to the changing landscape of the rail network (with HS2 being a good example of an ongoing variable), the three projects listed above may be subject to change in the future and other priorities may also emerge over the Plan period. For example, the Wolverhampton to Birmingham New Street rail corridor as a whole is not currently an acknowledged key transport project but it may become so as the future of HS2 and the rail needs of the West Midlands become clearer.

Network Rail is still working through the options for rail corridors in the West Midlands and consequently, seek to ensure that sufficient flexibility is built into Policy DLP67 to ensure the Policy does not prevent necessary changes or alternate solutions that may be come forward over the period of the Local Plan. As such, Network Rail requests that Part 2 of Policy DLP67 be expanded to read as follows (new text shown as **underlined**):

Land needed for the implementation of the priority transport projects listed this Policy, and other priority transport projects that may be identified over the plan period, will be safeguarded to allow for their future delivery.

As noted on page two of this letter, the draft Local Plan identifies various evidence base sources that have been used to inform transport related objectives and policies set out in the

Plan, particularly plans, strategies and other documents prepared by Transport for West Midlands (“TfWM”) and the West Midlands Rail Executive (“WMRE”).

For the reasons explained previously, to ensure that the Plan is sound, including by being justified based on proportionate evidence, Network Rail requests that reference to the West Midlands Strategic Advice 2022 and relevant emerging local studies is made with regards to Policy DLP67. Network Rail supports being recognised as one of the main agencies responsible for delivery of transport priorities, as listed on page 356 of the draft Plan, and as such reference to Network Rail’s strategies relevant to the area should also be acknowledged.

Policy DLP70 – The Movement of Freight (pp362 to 366)

Please see above comments under Policy DLP67 regarding the need to refer to West Midlands Strategic Advice 2022 and relevant emerging local studies as part of the policy evidence base. This also applies to Policy DLP70.

Proposed Housing Allocation: Moor Street, Brierley Hill, Dudley (DLP Site Ref H063)

As noted in the introduction to this letter, Network Rail made representations in December 2023 to the draft Regulation 18 version Dudley Local Plan, with comments concerning the employment allocation proposed in the Regulation 18 Plan for the Network Rail owned 3.74 hectare brownfield site at Moor Street, Brierley Hill.

The previous representations by Network Rail proposed the re-allocation of the Moor Street site from employment to residential. Network Rail note that the site (DLP HO63) is now included within the draft Regulation 19 Local Plan as a housing allocation for 90 units. Network Rail supports this residential allocation. As highlighted in the previous Network Rail comments, initial viability testing of the site was positive, and an options appraisal undertaken on the site revealed that it could potentially deliver 98 new family dwellings. The viability study suggests that if the site were to be placed on the open market it would receive good levels of interest from housebuilders, supporting the deliverability of the site for housing in this regard.

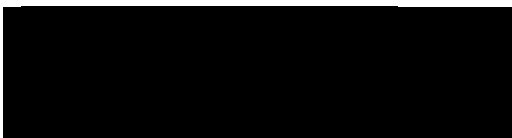
In tandem with this consultation, Network Rail are continuing to review the development site at Moor Street internally to establish if there is the potential for a continued railway use, given its location on a Strategic Freight Site.

Summary

I trust that these representations are of assistance and that they will be duly considered as part of the local plan process.

If you have any queries or require any further information, please do not hesitate to contact me in the first instance. Additionally, Network Rail would welcome the opportunity to discuss the site at Moor Street, Brierley Hill in detail with the Council, either on site in person, or via Teams.

Yours faithfully,



Richard Brown
Senior Director, CBRE (acting on behalf of Network Rail)