



## **Representations to Dudley Local Plan Regulation 19 Consultation**

### **1. Introduction**

- 1.1 Claremont Planning is instructed by Harworth Group to submit representations to the current consultation on the Regulation 19 Draft of the emerging Dudley Local Plan (DLP). These representations identify support for the continued allocation of the land under Harworth Group's control at Thorns Road, Brierley Hill under proposed site allocation DLP H017. However, these representations raise concerns in relation to the soundness of the proposed spatial strategy, with regards to the overall quantum of housing proposed to be planned for, as well as the contents of specific thematic policies.

### **2. Introduction & Context of the Plan**

#### *National Planning Policy Context*

- 2.1. The publication of the Draft Plan comes at a changing time for planning policy on a national level, which is recognised to some extent in the Plan, including in the introduction. This includes reference to the 2020 Planning White Paper and subsequent reforms introduced by the 2023 Levelling Up and Regeneration Act. However, the Council hasn't acknowledged through the draft Plan, the most recent Government proposals to change planning policy. Following the General Election in July 2024, the new Labour Government has made it clear that reforms to national planning policy will be implemented quickly, with a consultation on revisions to the National Planning Policy Framework undertaken during summer 2024. Whilst it is recognised that these changes remain in draft, and that there will likely be transitional arrangements allowing authorities that are at an advanced stage of plan-making to progress under the previous Framework guidance, the draft Plan should reference these proposed reforms, the consultation on which pre-dates this current consultation.
- 2.2. In particular, the consultation on the changes to the Framework includes changes to how local authorities are required to calculate housing needs, as well as the requirement for the Green Belt to be reviewed as part of plan-making where an authority is unable to meet its identified housing, commercial or other needs. This will have significant implications for Dudley, as the proposed changes to the Government's standard method will increase the annual housing need figure to almost 1,600 dwellings, compared to 657 based on the current calculation.
- 2.3. Whilst the authority is likely able to avoid these requirements under the proposed transitional arrangements, it is considered that through this emerging Local Plan the Council should at least recognise the direction of travel of national policy and the future challenges for plan-making in the Borough. Furthermore, this context must be recognised in respect of the Council's decisions not to seek to meet the Borough's housing needs in full, through this emerging Plan. Whilst this will be critiqued in more detail in subsequent sections of these representations, it is evident from the emerging proposals for planning policy and calculating housing needs, that the Borough should be making all attempts to respond to this at the earliest opportunity, rather than delaying this for future plan-making.

#### *Timetable*

- 2.4. The draft Plan sets out the timetable for the main stages of the preparation of the Dudley Local Plan at Paragraph 1.20. This confirms that the preparation of the Plan is expected to be submitted to the Secretary of State in Spring/Summer 2025 for examination. The timetable goes on to estimate that the Plan will be under examination by mid-late 2025, and then estimates adoption in 'early 2026'. It is presumably on this basis that the Council has set the end of the plan period as 2041.



- 2.5. It is considered that the Council's expectations regarding the timetable for examination and adoption of the Plan are optimistic. Guidance published by the Planning Inspectorate<sup>1</sup> establishes that most examinations take around a year to a year and a half. This is on average, recognising that the examination of some plans won't take as long as this, whilst others will be much more protracted. The timescales identified by the Council provide no buffer should the submission or examination of the Plan be delayed. Whilst the Government is committed to speeding up examination processes, it is considered likely that there will be requirements for the Council to provide additional evidence and/or for further consultations on information to be undertaken. On this basis, it is considered unlikely that the Plan will be able to be adopted by 'early 2026'. As such, the plan period for the emerging Plan should be reviewed prior to submission to ensure that, should the Plan be delayed at examination, the plan period would still extend beyond the minimum requirement of 15 years post adoption, as required by Paragraph 22 of the Framework.

#### *Regional Planning Policy Context*

- 2.6. At a regional level, it is considered that the draft Plan fails to fully consider or address plan-making across the wider Black Country area. The preparation of this Plan stemmed from the disbanding of the joint Black Country Plan, and disagreement on how the housing needs of the Black Country should be met. There remains uncertainty as to how housing will be delivered at both a sub-regional and regional level. The Duty to Cooperate Statement 2024 establishes that the Council is writing to other authorities to inform them of the most up to date evidence and continued housing shortfall, however it is evident from the Statement that no formal negotiations or agreements have taken place.
- 2.7. It is also considered that the draft Plan has not adequately considered the needs of employment land in this regard. This is particularly relevant for smaller scale or lower quality employment uses. These are the types of uses that are likely to require relocation in order to free up many of the housing allocations that the Council is reliant upon delivery of to meet the housing needs. The authority should therefore ensure that the expectations in terms of employment delivery are realistic and provide the appropriate quantum and quality of employment sites that will enable local businesses to continue to operate within the local area.
- 2.8. Accordingly, it is considered that the Plan as currently drafted has not adequately addressed the requirements of the Duty to Co-operate, and that this needs to be addressed prior to the Plan being submitted for examination. The Framework establishes that effective and on-going joint working between strategic policy making authorities is integral to the production of a positively prepared and justified strategy, and therefore the Council must be able to demonstrate that it has fulfilled these obligations in order to demonstrate the Plan can be found sound.

### **3. Vision**

- 3.1. The Plan identifies a proposed 'Vision' which contains seven aspirations for what the Borough should be. Whilst overall the aspirations are supported, the Council should acknowledge that it will be a challenge to balance meeting all of these aspirations, particularly where they are likely to conflict. For example, it will be challenging for the Borough to balance delivery of affordable and attractive places to live, with a green network, and a high quality and affordable transport network.

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<sup>1</sup> <https://www.gov.uk/guidance/taking-part-in-local-plan-examinations>



It is considered that the vision should additionally recognise the need to provide a sufficient quantity of new homes to meet local needs, which should be a central target for the emerging Local Plan.

- 3.2. The key concern with the Vision however is the identification of a plan period to 2041. As noted in Paragraph 2.5 above, there is a significant risk that delays to the preparation or examination of the Plan will mean that the plan period falls short of the required 15 year plan period post adoption, as required by Paragraph 22 of the Framework. As such, the Council should plan for at least a further two years to allow for those delays, and ensure that the Plan is capable of being found sound and consistent with the requirements of national policy, as required by Paragraph 35 of the Framework.

#### **4. Dudley Borough Spatial Strategy**

##### *Policy DLP1 – Development Strategy*

- 4.1. Policy DLP1 of the emerging DLP establishes that the Council intends to plan for the delivery of at least 10,470 new homes during the plan period to 2041, alongside at least 22.62ha of employment land. The policy goes on to confirm that the full housing and employment land requirements will be met through identified sites, and through reliance on neighbouring and other local authorities. It is considered that the Borough should at least be planning to meet its emerging housing needs in full, and potentially also considering whether a meaningful contribution towards other authorities unmet housing needs could be delivered within the Borough as identified above. This is considered to be necessary in order to ensure that the Local Plan is capable of being found sound at Examination, given that the Duty to Cooperate cannot be retrospectively addressed.
- 4.2. The spatial strategy identifies the level of housing expected to be delivered at each of the identified centres, as well as in each of the proposed Regeneration Corridors. This confirms that the majority of the Borough's housing and employment needs will be delivered within those centres and corridors. Additionally, small and large site windfall allowances are proposed, as well as a windfall allowance from Dudley Council site disposals and an uplift allowance from centres. Together, this confirms how the Council expects to deliver c.10,470 new dwellings (net) and 22.62ha of employment land. This approach is supported in principle, however the Plan should be planning to meet housing needs in full, in order to be consistent with national policy. In particular, where Paragraph 23 of the Framework requires that "*strategic policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development.*" In order to satisfy these requirements and be capable of being found sound at examination, the Council should ensure that sufficient sites are allocated to meet the emerging housing needs in full.

##### *Policy DLP2 – Growth Network*

- 4.3. This draft Policy sets out the Growth Network for the Borough, which it provides is intended to be the primary focus for new development, regeneration, and infrastructure investment to support the delivery of significant growth and promote wider benefits to communities. Section 3 of the draft Policy confirms that Regeneration Corridors will provide a minimum of 2,322 new homes in sustainable locations, alongside 22.6ha of developable employment land.
- 4.4. The proposed Growth Network approach is supported, as this seeks to direct development to the most sustainable locations in the Borough, following on from the approach set out in adopted Policy including the Black Country Core Strategy and Dudley Borough Development Plan. The vision for Regeneration Corridor 3: Stourbridge to Lye, within which high quality residential communities with access to parks, employment opportunities, and high-quality transport links is strongly supported.



- 4.5. The allocation of the land off Thorns Road for residential development under allocation reference DLP H017 is strongly supported, in recognition of the highly sustainable location occupied by the site. It is considered that the development of the land off Thorns Road will contribute strongly towards the realisation of the Council's vision for Regeneration Corridor 3, by virtue of the site's close proximity to public open spaces including Stevens Park – Quarry Bank; employment opportunities located at the Bott Lane industrial estate to the south; and local services and amenities; all of which are easily accessible by sustainable modes of transport.

## 5. Housing

### *Policy DLP10 – Delivering Sustainable Housing Growth*

- 5.1. In order to address the housing figures established through Table 5.1 and Policy DLP1 of the draft Plan, Policy DLP10 confirms that sufficient land will be provided to deliver at least 10,470 new homes over the plan period to 2041. Table 8.1 provides a summary of the key sources of housing supply, whilst the proposed housing allocations are detailed in Part 2 of the Draft Plan. As identified earlier in these representations, the Council's starting point in respect of the housing requirement for this Plan to address does not meet the soundness tests set out in the Framework for Plan-making. The provision of 10,470 dwellings does not represent the Borough's housing needs in full for the proposed plan period, whilst the plan period itself is not considered sufficient.
- 5.2. Notwithstanding these concerns, the continued intention to allocate the land promoted by Harworth at Thorns Road, through proposed allocation DLP H017 is strongly supported. The site was previously allocated through the adopted Development Plan under site reference H13.17, Since the allocation of the site, part of the site is being brought forward through full planning application P22/1363 which is expected to receive consent imminently, with delivery expected to commence shortly thereafter. The remainder of proposed allocation DLP H017 is expected to be brought forward on a phased basis, as at present it remains occupied by employment uses, but in the medium to long term the rest of the site will become available.

### *Policy DLP12 – Affordable, Wheelchair Accessible & Self-Build Housing*

- 5.3. This policy seeks to guide the delivery of affordable and accessible housing, however as currently drafted, the policy is contradictory and ambiguous. For example, in respect of affordable housing, criteria 4 of the proposed policy establishes that the tenure and type of affordable homes will be determined on a site by site basis; however criteria 5 identifies a proposed tenures split of affordable housing. It is considered that the former represents a more appropriate approach for policy, enabling delivery of affordable housing to respond to changing needs and evidence over the plan period, rather than rigidly applying a tenure split. This should be addressed through modifications to the proposed policy prior to the submission and examination of the Plan to ensure that the policies are clear and unambiguous in accordance with Paragraph 16 of the Framework.
- 5.4. A requirement for proportions of M4(2) and M4(3) compliant housing is also identified in the Policy, which has not been robustly justified. The Planning Practice Guidance confirms that authorities can adopt policy to provide enhanced accessibility or adaptability through reference to M4(2) or M4(3) Building Regulations Requirements, by clearly stating what proportion of new dwellings should comply with the requirements. However, the PPG goes on to say that policies should take into account site specific factors such as vulnerability to flooding, site topography, or other circumstances that may make a site less suitable for such dwellings, where step-free access cannot be achieved or would not be viable. The PPG identifies however that authorities should only apply the optional standards 'where an identified need exists', noting that policies should be based on



the evidence of need, viability, and a consideration of site specific factors. It is not considered that the 'flexibility' identified in the policy by the Council is sufficient to respond appropriately to these requirements and could prove an unnecessary and unreasonable burden on deliverability or viability, when other policy expectations are also likely to be considerable.

- 5.5. It is not considered that the Council has justified the proportion of M4(2) and M4(3) compliant housing required, with requirements considered significant and onerous, particularly in respect of for M4(3) complaint dwellings, when this is likely not justified. The Plan as currently drafted fails to recognise that other types of housing may be more appropriate to meet the needs for accessible and adaptable and wheelchair accessible housing, such as specialist housing developments for older people. Such developments will provide additional support that is likely necessary alongside the housing suitability requirements, and should be considered more appropriate to meet those needs. It is considered that the Council should reconsider the requirements set out in Policy DLP12, ensuring that the policies are justified and positively prepared, in recognition of the requirements of soundness set out in Paragraph 35 of the Framework.

## **6. Employment**

### *Policy DLP21 – Other Employment Areas*

- 6.1. Draft Policy DLP21 establishes the Council's proposed approach for employment areas that are not designated as either Strategic Employment Areas or Local Employment Areas but which comprise existing employment land within the Borough. In the previous Regulation 18 draft of the Plan, the policy did not include a distinction for sites in current employment uses, which are proposed to be allocated for housing, which would have included proposed housing allocation DLP H017. However, this has been rectified in the Publication Draft version of Policy DLP21, which is supported. The loss of the existing employment use of sites, such as this has already been assessed by the Council and deemed acceptable through the site allocation process, both in respect of this emerging Plan and through previous adopted policy documents. In such circumstances, the principle for the loss of such employment uses is already established, and it is supported that policy acknowledges this.

## **7. Environment**

### *Policy DLP32 Biodiversity Net Gain*

- 7.1 This proposed policy duplicates existing national policy and legislative requirements. This policy should be reviewed by the Council in accordance with the requirements of Paragraph 16 of the Framework, which requires policies to serve a clear purpose and avoid duplication. It is considered that the policy is unnecessary, given the mandatory requirements set out in national legislation, and therefore the Council should delete this proposed policy.

### *Policy DLP33 – Trees, Woodlands, Ancient Woodland and Veteran Trees*

- 7.2 This proposed policy seeks to establish a requirement for major development to provide a minimum of 20% canopy tree cover across the development site. Whilst these aspirations are positive and the principle of securing planting of new trees is supported, the policy fails to acknowledge the implications of delivering this requirement on the capacity, and resultant viability, of development sites. This is particularly critical given that much of the Borough's housing requirement is proposed to be met on brownfield sites within the existing urban area, such as allocation DLP H017, where this level of tree planting is likely to be challenging to achieve. Other considerations including



mandatory biodiversity net gain should also be recognised, with competing requirements likely to impact the amount of development that can realistically be achieved on sites.

- 7.3 It is therefore considered that if the authority wants to continue to request this through policy, this should be identified as aspirational and to be delivered where feasible and deliverable. Given the constraints presented to housing delivery within Dudley, the Council should recognise the imperative to ensure that an effective use of land is made and that the delivery of sites is not unduly constrained by arbitrary policy requirements. This policy should also be streamlined, removing unnecessary items that are covered through existing national policy or legislation such as relating to ancient woodland or veteran trees. National policy set out in Paragraph 16 of the Framework requires policy to be clearly written and unambiguous, and serve a clear purpose, whilst some of the requirements set out in this policy as currently drafted would be better placed within supporting text or supplementary planning guidance, to ensure that the Plan is drafted in an appropriate way.

#### *Policy DLP39 Design Quality*

- 7.4 National policy establishes the importance of good design for achieving sustainable development. It is considered that the Council's proposed design policy however is consistent with national policy, and is overly lengthy as currently drafted. The policy seeks to cover a range of topics and references a range of different forms of policy and guidance, resulting in a protracted policy. The policy would be more effective should the Council focus on what the key expectations are in respect of design locally, with supporting text referencing where appropriate other supplementary policy or guidance that the authority expect developers to take into account.
- 7.5 In particular, the requirement for proposals to be compliant with national space standards, should be justified, if the Council consider that the evidence has identified that this is necessary. Footnote 52 of the Framework confirms that policies can make use of nationally described space standards, where the need is justified, and it is not considered that the Council has done so through the draft Plan or accompanying evidence base. Whilst the supporting text references that it is not expected that this requirement would impact on development viability, it is not considered that this provides adequate justification for this to form a policy requirement.

## **8. Climate Change**

*Policy DLP41 – Increasing Efficiency and Resilience; DLP43 – Managing Heat Risk; DLP47 – Renewable and Low Carbon Energy*

- 8.1 These three policies in the emerging Plan set out various policy measures relating to sustainable design and construction in order to achieve the Council's aspiration of mitigating and adapting to climate change. As identified through previous representations, it is considered that the policies should be reviewed and amalgamated, in order to streamline policy requirements and reduce duplication, consistent with the requirements of Paragraph 16 of the Framework. It should be considered whether policy requirements could be identified in more simple terms, with more detailed policy suggestions identified through Supplementary Planning Documents, whilst also recognising the increased requirements for renewable energy and other sustainable technologies advanced through changes to Building Regulations.

## **9. Regulation 18 Dudley Local Plan Part Two: Site Allocations**

- 9.1. Part Two of the Regulation 19 Publication Local Plan identifies the housing and employment allocations within the Borough. The land under the control of Harworth Group off Thorns Road,



Brierley Hill is proposed to be allocated under site reference DLP H017, with an indicative housing capacity of 286 dwellings identified. The allocation of this site is strongly supported by Harworth Group, who intend to bring forward the entire site extent for development. The commitment of Harworth Group to the delivery of this site allocation is evidenced by the development proposals currently under consideration through application P22/1363 which seeks consent for 50 dwellings on land comprising the southernmost parcel of the wider allocation, with planning permission expected to be granted imminently. The remainder of the proposed allocation is expected to be brought forward for development on a phased basis, and therefore the continued allocation of this site in the emerging Development Plan is strongly supported.