

# 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?

<b>Title of document</b>	Dudley Local Plan Part 2		
<b>Paragraph/section</b>	6. Housing	<b>Policy</b>	
<b>Site</b>		<b>Policy Map</b>	

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 checked="" type="checkbox"/> | Yes | <input type="checkbox"/>            | No |
| 2. Sound                                | <input type="checkbox"/>            | Yes | <input checked="" type="checkbox"/> | No |
| 3. Complies with the Duty to co-operate | <input checked="" 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.

Although Dudley Council has applied the flood risk Sequential Test in accordance with the National Planning Policy Framework (NPPF), there is currently no Level 2 SFRA to assess those sites that are proposed in areas of medium/high risk of fluvial flooding (Flood Zone 2 and 3) or surface water flood risk.

If following the application of the Sequential Test, it has not been possible to locate all development to areas with a lower risk of flooding, the Exceptions Test should be applied where applicable. This is set out in the NPPF paragraphs 169-171. Diagram 1 'Taking flood risk into account in the preparation of strategic policies' (paragraph 007) sets out the steps when a L2 SFRA is required. Paragraph 171 of the NPPF states that both parts of the Exceptions Test should be satisfied for a development to be allocated or permitted.

We are aware that Dudley are taking steps already to address this, and are in the process of screening the site allocations that will go forward for the Level 2 SFRA assessment with JBA. We welcome the Council in taking these steps to ensure that the sites are compliant with the NPPF and can be justified.

In the current absence of a Level 2 SFRA we consider the Local Plan, in particular the section setting out the housing allocations is unsound as it is not consistent with national policy (paragraphs 169-171). In our view it does not currently meet the justified test of soundness, as without a complete evidence base on flood risk to support the inclusion of the relevant site allocations, it is not an appropriate strategy based on an appropriate evidence base.

The Level 2 assessment will enable a better understanding of the flood risk characteristics on the site and immediate surrounds, including flood depths, rate of inundation, duration and hazard. It should be borne in mind that the presence of functional floodplain (flood zone 3b) on a site can significantly restrict that site's capacity to deliver development as only water compatible or essential infrastructure are permissible in this zone. Flood Zone 3a can also be restrictive if extents limit available space for flood mitigation measures. A main river passing through or adjacent to a site will also require the 10 metre easement from top of bank either side of the river. The impact of climate change would also require assessment as part of the Level 2 SFRA.

The Level 2 SFRA will help the Council to ascertain the overall deliverability of the site allocation and it's ability to pass the Exceptions Test. Bradley Road (East) and (West) will require careful assessment and consideration in this regard for the presence of flood zone 3b and 3a using the latest data. Caledonia Sewage Works and Lyde Green/Cradley Road are also sites affected by fluvial risk and we welcome that all these sites are being put forward for Level 2 assessment. We are aware the Council are including sites affected by surface water flood risk which is supported as all forms of flood risk should be considered.

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.**

There are four main actions the Council need to undertake:

1. A Level 2 Strategic Flood Risk Assessment (L2 SFRA) will be required as an initial step. The Environment Agency should be consulted where possible on the draft report. Our planning advice service (cost recovery) can provide for this.

2. The Council will need to consider the findings from the L2 SFRA and the overall outcome for the site's inclusion in the Local Plan (rejection or continued inclusion). This would need to consider the overall safety of developing the site in terms of flood risk to future occupants and the risk of increasing flood risk elsewhere i.e. consideration of the Exceptions Test. There would need to be consideration of whether there's any significant restrictions or limitations to the sites deliverability/capacity for built development and number of new homes.

3. The outcome of the Exceptions Test for relevant sites should be recorded - this could be an update of the Council's current Sequential Test document (Appendix to the SFRA).

4. In addition, the L2 SFRA will have recommendations for site specific design measures. Where there are relevant policies aligned to an opportunity area or site assessed by the L2 (for example, Policy DLPSOS1 Stourbridge Town Centre Opportunity Site: North of Birmingham Street), some of the L2 SFRA recommendations should be inserted as policy requirements. Inserting local site specific flood risk measures within these policies will ensure these are recognised as a priority to be delivered and thereby help to ensure the site's safe development and reduction of flood risk. Alternatively the policy requirement could specify that any development should adhere to the recommendations of the L2 SFRA. We would be happy to agree inclusion/amendments to policy wording with the Council in the form of a Statement of Common Ground.

*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:**

Our intention is to work with the Council as they move forward with the Level 2 SFRA to overcome this objection.

We can attend the relevant hearing session if necessary to assist with the Inspector's questions but anticipate this may not be required if we are able to agree a Statement of Common Ground with the Council.

*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](mailto: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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