



Planning Policy  
Sandwell MBC  
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Date: 11 November 2024

Our Ref: M5/0406-09

**By email only: [Sandwell\\_LocalPlan@sandwell.gov.uk](mailto:Sandwell_LocalPlan@sandwell.gov.uk)**

Dear Sir/Madam,

**RE: PUBLICATON DRAFT SANDWELL LOCAL PLAN 2024 - 2041 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 and provide comments on the Final Draft Local Plan for Sandwell.

The current Black Country Core Strategy was adopted in February 2011 and is more than 10 years old and therefore out-of-date when considered against the National Planning Policy Framework (NPPF, 2023). It is encouraging that Sandwell Metropolitan Borough Council is being proactive and preparing a new Local Plan to account for updates to national policy, particularly after the Black Country Plan (BCP) Review was abandoned in October 2022.

The Government undertook its eight-week consultation on the 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 SHO4 below.

### **Draft Housing Need and Duty to Co-operate**

Paragraph 3.13 on page 52 of the Draft Local Plan highlights a substantial shortfall in the local authority's ability to provide for the housing needs of its residents:

*"The SLP aims to allocate sites for 10,434 new homes in Sandwell over the period 2024-41, compared to a local housing need of 26,350 (2024 – 2041) homes; this means there is a shortfall of 15,916 homes."*

At first glance, this may seem like a reduction in the shortfall, compared to previous figures in the Regulation 18 Consultation Draft Local Plan. However, this impression may be misleading as the new figures cover a revised plan period from 2024 to 2041, which is two years shorter than the plan period outlined in the Regulation 18 Draft Local Plan, which spanned 2022 to 2041. Despite this adjustment, the shortfall remains significant. The Regulation 18 Consultation Draft Local Plan stated:

*“This Plan aims to allocate sites for 11,167 new homes in Sandwell over the period 2022-41, compared to a local housing need of 29,773 (2022 – 2041) homes; this identifies a shortfall of 18,606 homes.” (Emphasis added).*

As we have previously discussed and given the ongoing shortfall, the WMHAPC is concerned that the Council is advancing the draft strategic housing policies without demonstrating how the housing gap will be addressed. Specifically, the Council has not shown that neighbouring authorities can absorb the shortfall while simultaneously meeting their own housing needs. This is a crucial issue that must be resolved under the Duty to Cooperate, and it should be clearly articulated in a Statement of Common Ground among all relevant parties. Without this, there is a risk that the housing needs of both Sandwell and the wider region will remain unmet. This is an acutely important matter.

At paragraph 3.18, page 53, it states that:

*“Sandwell is committed to ongoing engagement with its neighbours to secure the most appropriate and sustainable locations for housing and employment growth to meet local needs. In terms of housing, the engagement will extend beyond the adoption of this plan and will build on the partnership approach developed across the Greater Birmingham and Black Country Housing Market Area.”*

While it appreciated that efforts have been made to work collaboratively with other Black Country Authorities, the Sandwell Local Plan Regulation 19 Duty to Co-operate Statement (September 2024) still leaves significant uncertainty regarding how the shortfall in housing will be addressed. The statement demonstrates that existing offers from neighbouring authorities (South Staffordshire, Cannock Chase, Lichfield and Shropshire) in meeting wider-than-local housing needs result in the capacity of up to 8,000 homes, which falls far short of the 15,916 homes required in Sandwell.

The WMHAPC is of the view that further work between Sandwell Borough Council and neighbouring authorities is needed before the strategic housing policies can progress and subsequently be found ‘sound’ at examination, as defined by Paragraph 35 of the NPPF (2023):

*“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<sup>1</sup>; 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.”*

At present the Draft Plan does not provide for the area’s objectively assessed need and there are no formal agreements in place that have been set out in evidence which demonstrated unmet need can be met in neighbouring authorities.

### **Draft Policy SDS7 – Sandwell’s Green Belt**

Draft Policy SDS7 sets out Sandwell’s approach to implementing Green Belt policy. Supporting text to draft Policy SDS7 at paragraph 3.99 states:

*“It is the Council’s view that there are no exceptional circumstances in Sandwell that would justify amending current boundaries and releasing any areas of green belt for new development. While there is an identified shortfall of land suitable for housing and economic development, this of itself does not outweigh the need to maintain the openness and*

<sup>1</sup> *“Where this relates to housing, such needs should be assessed using a clear and justified method, as set out in paragraph 61 of this Framework.”*

*permanence of the green belt within Sandwell, especially given the densely developed and urban character of most of the rest of the borough.”*

The WMHAPC is disappointed with the Council's decision to maintain its stance of not adjusting the Green Belt boundary. This approach is concerning, particularly given the significant housing shortfall identified in the Local Plan. While the preservation of Green Belt land is important for environmental and recreational purposes, the refusal to even consider potential adjustments may limit the authority's ability to address the urgent and growing housing needs of Sandwell.

The Green Belt serves a critical role in shaping sustainable development, but there are circumstances where a balanced review of its boundaries can offer opportunities to meet housing demand while still maintaining open space protections. The WMHAPC believes that by ruling out adjustments to the Green Belt boundary, the Council may be missing opportunities to identify suitable land for development, which could improve access to affordable housing.

In light of these concerns, the WMHAPC urges the Council to reconsider its position and adopt a more flexible approach that balances the need for housing growth with the importance of protecting valuable green spaces. A careful, strategic review of the Green Belt could potentially unlock areas for development that are both sustainable and beneficial to the community, helping to address the housing crisis without compromising the long-term environmental goals of the region.

Furthermore, paragraph 141 of the NPPF (2023) states that before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, all other reasonable for meeting its identified need for development should be considered. Paragraph 141 goes on to state *“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.”*

In relation to points a), b) and c) of paragraph 141 of the NPPF (2023) and the discussion above relating to the duty-to-cooperate, the ability of neighbouring authorities to accommodate the shortfall in the housing needs of Sandwell remains uncertain.

Considering the above, the statement that there are no exceptional circumstances to warrant a Green Belt Review is somewhat questionable given that the Council does not have a comprehensive plan for how the shortfall in housing needs is going to be met.

The WMHAPC therefore strongly recommends that the Council takes a more level approach in meeting housing need within Sandwell's Green Belt, including the allocation of additional housing sites to directly address the housing needs of local communities.

#### **Draft Policy SH04 - Affordable Housing**

Given the significant need for new affordable homes in Sandwell, the WMHAPC suggests that a blanket affordable housing requirement of 25% on sites across the Borough would be more appropriate than the proposed stepped policy (currently based on a land value approach) that requires:

- 10% affordable housing on low value zones and brownfield sites in medium value zones;
- 15% affordable housing on greenfield sites in medium value zones; and
- 25% affordable housing on all sites in high value zones.

The WMHAPC asks the Council to consider a blanket 25% requirement for affordable housing to optimise the delivery of affordable housing across the Borough regardless of the land value. We previously queried the evidence based used for to justify the reduced affordable housing requirement

on low value brownfield sites in which the policy proposes 15%. Furthermore, and in light of the Borough's considerable need for affordable housing as highlighted in the HEDNA (2024) of 278 dpa, the Council should avoid progressing an emerging policy that would potentially secure less affordable housing than current adopted Policy CSP6 which requires 25% affordable housing on qualifying sites.

Criteria 3 of the draft Policy SHOU4 Plan to require 25% as First Homes with the tenure split for affordable housing 'as defined in national guidance'. 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.

Whilst 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 new 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.

Furthermore, the justification text at paragraph 7.25 clearly identifies the similarities in requirements between Shared Ownership and First Homes, stating that:

*"Rising house prices and low average incomes over a long period have made market housing increasingly unaffordable for many Sandwell households. The Sandwell HMA (2024) identifies a requirement for 17.5% of new homes to be made available for affordable or social rent, 7.8% to be shared ownership and 8.3% to be First Homes."* (Emphasis added).

Criteria 6 of draft Policy SHOU4 seeks to secure affordable housing in perpetuity. However, there is currently no requirement in the NPPF (2023), nor in the Planning Practice Guidance, for all affordable housing to be secured in perpetuity. National policy is silent on the requirement to secure affordable housing in perpetuity, other than the specific reference to rural exception sites in Annex 2 of the NPPF (2023), which states:

*"Rural exception sites: Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority's discretion, for example where essential to enable the delivery of affordable units without grant funding."* (Emphasis added).

This principle is appropriate and supported by the WMHAPC as it facilitates the provision of affordable housing in rural areas where housing delivery would otherwise not be supported. However, a blanket approach to securing affordable housing in perpetuity is not supported. The WMHAPC is therefore disappointed that the Council have opted not to incorporate previous concerns that new affordable housing proposed should only be required to be secured in perpetuity on rural exception sites.

One key issue is that securing affordable housing in perpetuity restricts lenders' appetite to fund development, as it imposes greater restrictions on individual properties, making mortgage provision more challenging. Private companies are also less inclined to invest in these developments if there is no prospect of realising the original investment and any returns. As such, the WMHAPC are of the firm view that affordable housing should only be secured in perpetuity on rural exception sites. The WMHAPC requests that, in line with national planning policy, the policy wording of draft Policy SHOU4 changed to only relate to rural exception sites.

As previously advocated for by the WMHAPC, the inclusion of a rural exception site policy would help bring forward housing in constrained rural areas of Sandwell where land may not normally be suitable for housing. The WMHAPC therefore strongly encourages the inclusion of a rural exception site policy. Paragraph 78 of the NPPF (2023) explains 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.*” Such sites are an exception to inappropriate development within the Green Belt as set out by paragraph 149 of the NPPF (2023).

### **Policy SHO5 - Delivering Accessible and Self / Custom Build Housing**

Criteria 1 requires that: *“All new homes will be required to meet M4(2) (Category 2: Accessible and adaptable dwellings) requirement in Building Regulations”*. It is acknowledged that evidence has been provided in the Sandwell Borough Council Housing Market Assessment (August 2024) at paragraph 7.39 highlighting that *“In total 6,510 accessible and adaptable homes are required in 2041 in Sandwell, of which 2,388 should be in the market sector and 4,122 in affordable accommodation.”*

The WMHAPC accepts that there is a growing need for accessible and adaptable homes, however, the requirement for M4(2) dwellings for all new residential schemes could have considerable implications on viability and overall affordable housing delivery in Sandwell. Some sites and/or schemes do not lend themselves to the statutory provision of M4(2) units for example due to typography, some developments may be unable to provide step-free access to dwellings etc. In light of this, the WMHAPC requests that the Council exercises an element of discretion when considering proposals.

### **Draft Policy SDM2 – Development and Design Standards**

The WMHAPC previously raised concerns about the blanket application of Nationally Described Space Standards (NDSS) for all new residential developments and that evidence needs to be produced for the requirement. As set out above, and in line with paragraph 35 of the NPPF (2023), in order to be found sound at examination, policies should be appropriately justified with *“an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence”*.

Among tests of viability and timing Planning Practice Guidance requires the application of Nationally Described Spaces Standards (NDSS) to be based on an established 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.”*

There are concerns 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. The WMHAPC urges the Council to acknowledge that 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.

Criteria 3 of draft Policy SDM2 references a water efficiency standard of 110 litres per person per day, in line with Part G2 of the current Building Regulations or any successor legislation. While the WMHAPC supports the inclusion of a provision to comply with the most up-to-date building regulations, the policy should be revised to avoid specifying exact measures. Water efficiency standards are already addressed and enforced through Building Regulations and repeating these standards in planning policy risks becoming outdated if regulations change. To maintain flexibility and relevance, the policy should focus on compliance with current regulations without duplicating specific technical requirements.

### **Further comments**

We would like the Local Plan to acknowledge the role of Housing Associations in providing affordable housing in Birmingham. It would be beneficial to see the Council recognise the role of Housing Associations and encourage developers to have early active engagement with Housing Associations in the preparation of planning proposals. Early engagement enables Housing Associations to have an active role in the planning and design of developments to ensure that the development addresses local housing needs and meets the management requirements of WMHAPC members.

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 Sandwell MBC, by email only to [consultation@tetlow-king.co.uk](mailto: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 sincerely

**LISA LUONG BSc (Hons) MSc  
PLANNER**

For and On Behalf Of  
TETLOW KING PLANNING

cc: Aspire Housing  
Black Country Housing Group  
Bromford Housing Group  
Bromsgrove District Housing Trust  
Citizen Housing Group  
Platform Housing Group  
Stonewater Ltd  
The Community Housing Group Ltd  
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Warren Williams - Housing Investment and Development Officer