
Report to Dudley Council

by Jameson Bridgwater PGDipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date 9 November 2016

Planning and Compulsory Purchase Act 2004
(as amended)
Section 20

Report on the Examination of the Dudley Area Action Plan

The Plan was submitted for examination on 3 March 2016

The examination hearings were held on 14 June 2016

File Ref: PINS/C4615/429/10

Abbreviations used in this report

AA	Appropriate Assessment
BDS	Dudley Borough Development Strategy
BHAAP	Brierley Hill Area Action Plan
CS	Black Country Core Strategy
DAAP	Dudley Area Action Plan
DtC	Duty to Co-operate
HAAP	Halesowen Area Action Plan
HRA	Habitats Regulations Assessment
LDS	Local Development Scheme
LP	Local Plan
MM	Main Modification
Framework	National Planning Policy Framework
PPG	Planning Practice Guidance
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SAAP	Stourbridge Area Action Plan

Non-Technical Summary

This report concludes that the Dudley Area Action Plan provides an appropriate basis for the planning of Dudley town centre. The Plan aims to support the economic growth of Dudley and seeks to ensure that its role as the civic and historic centre of the Borough is maintained. I find that the DAAP is justified by a sound evidence base. It has been positively prepared with a high degree of engagement with stakeholders. I am satisfied that it is in conformity with the Black Country Core Strategy and consistent with National Policy. The Local Plan is sound as submitted, and there are therefore no Main Modifications necessary before the Plan may be adopted.

Introduction

1. This report contains my assessment of the Dudley Area Action Plan in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (paragraph 182) makes it clear that in order to be sound; a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Dudley Area Action Plan, submitted in March 2016 is the basis for my examination. It is the same document as was published for consultation in November 2015 (D6).

Main Modifications

3. As the DAAP as submitted is both sound and legally compliant, it is capable of being adopted without change and no MMs are recommended in this report.

Policies Map

4. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as DAAP Submissions Policies map as set out in document reference D33.
5. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in the DAAP.

Consultation

6. I have taken account of the consultation responses in coming to my conclusions in this report.

Assessment of Duty to Co-operate

7. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation. There is a duty to co-operate on strategic matters that cross administrative boundaries. The Council have engaged with its neighbours as a precautionary measure given the shared CS. The Council's approach is set out in the Statement for Co-operation (D11). Overall, I am satisfied that there are no outstanding strategic cross border issues.

Assessment of Soundness

Background

8. The DAAP has been prepared in the context of the Black Country Core Strategy (CS), a document prepared jointly by Dudley, Sandwell and Walsall Metropolitan Borough Councils and Wolverhampton City Council. Much of the evidence base for the DAAP is shared with that of the CS and was prepared in co-operation with the other participating Councils. The CS provides the strategic planning policy background for the matters contained within the DAAP, and it is not necessary to address those matters further in my examination.
9. The DAAP will form part of the suite of plans comprising the CS, Brierley Hill Area Action Plan (BHAAP), Halesowen Area Action Plan (HAAP), and Stourbridge Area Action Plan (SAAP) and, when adopted, the Dudley Borough Development Strategy (BDS). These plans, in turn, will replace the saved UDP policies and will be used as necessary to assess development proposals within the Plan area. Appendix 4 provides a list those saved UDP policies which will be superseded by the DAAP.
10. Dudley is the civic and historical centre of the Borough. The DAAP seeks to direct and inform development proposals in Dudley which is one of the four principal town centres in the Borough. The plan seeks to build on the towns distinct characteristics and improve the built and natural environment to support tourism, create employment; learning opportunities and encourage people to live in the town centre.

Main Issues

11. Taking account of all the representations, the written evidence and the discussions that took place at the Examination Hearings I have identified five main issues upon which the soundness of the Plan depends. Under these headings my report deals with the main matters of soundness rather than responding to every point raised by representors.

Issue 1 – Is the Dudley Area Action Plan consistent with, and does it positively promote, the visions, objectives and spatial policies contained in the Core Strategy; and is its overall approach consistent with national policy?

12. Dudley is a historic market town which serves the needs of its local population. The town centre provides a strong focus for civic life providing for local shopping, education and leisure. The Black Country Museum, Castle and Zoo ensure that Dudley makes a significant contribution to tourism and heritage in the Black Country. The DAAP has three key objectives; achieving economic prosperity, maintaining a high quality built, historic and natural environment and developing and ensuring social inclusion. Consequently, through the DAAP, the Council are seeking to increase the vitality and viability of the town centre. These objectives are consistent with the CS.
13. There is broad local support for the Plan's vision and objectives, which are based on an understanding of community needs and aspirations gained through extensive public consultation and engagement. This is explored in the

preferred options summary (D5) which demonstrates how the Council has reached its preferred options for the visions and aims of the plan. There is a flexible approach across the allocated sites to balance the provision of available and deliverable development land for town centre uses (retail, commercial, and employment) alongside securing increased housing provision in and around the town centre.

14. Overall, the Plan before me is positive and flexible, and it promotes and encourages economic development and environmental improvement in Dudley throughout the Plan period consistent with the aims of the CS and the Framework.

Issue 2 – Is the DAAP's provision for housing and retail consistent with the Core Strategy and national policy, deliverable and has the plan been positively prepared in these respects?

Policy 15 Retail provision

15. With regard to retail provision, Dudley falls within the second 'town centres' tier identified in the hierarchy of centres in the Black Country, this is set out in CS Policy CEN2. Dudley town centre is allocated 15000 sqm (gross) comparison retail floorspace and 5000 sqm (net) of convenience retail in CS Policy CE4. DAAP Policy 15 meets these requirements in full and is therefore consistent with the CS. The specific retail site allocations are set out in Policies 7 to 13 Development Opportunity Sites.
16. In relation to delivery, it was clear from the evidence and the representations at the Examination Hearings that delivery in Dudley has been historically challenging due to structural changes in the Borough's economy and the past mining legacy. However, notwithstanding these issues it was clearly demonstrated by the Council, through working in partnership with developers and pro-actively de-risking development sites that there was a strong track record of plan led delivery in Dudley. This approach was confirmed and supported at the examination hearings by representatives working on behalf of the development industry. In terms of viability, the Council's approach to retail provision is underpinned by the submitted viability evidence (D26).
17. Consequently, based on all of the available evidence, there is a reasonable prospect that the retail provision can be delivered within the plan period. Having reached the conclusions above, Policy 15 is consistent with the CS and the aims of the Framework in particular paragraph 23.

Policy 18 – Housing

18. Policy 18 and the policies for the Development Opportunity Sites (Policies 7 – 13) seek to ensure that residential development is directed towards appropriate sites and that opportunities to introduce residential development in underused upper floors are maximised. The plan therefore promotes and encourages residential development in and around the town centre in accordance with Policies HOU1 and HOU2 of the CS and paragraph 23 of the Framework which recognises the important role of residential development in supporting the vitality of centres.

Issue 3 – Are the Development Opportunity Sites consistent with the Core Strategy and national policy, are site allocations deliverable and has the plan been positively prepared in these respects?

19. The DAAP allocates 7 Development Opportunity Sites to promote, focus and enable sustainable economic growth for Dudley; this is consistent with the objectives of the CS. This is an evidence based response to the significant changes in the economy of Dudley town centre and is informed and justified by the GVA Grimley Black Country Centres Study (CD9) and Dudley Borough Centres Health Check Surveys (CD11). Consequently, the allocations within the DAAP seek to balance the provision of available and deliverable development land for town centre uses (retail, commercial, employment) alongside securing increased housing provision in and around the town centre. This is further evidenced by the DAAP Viability Commentary (D26). This accords with the overall aim of the DAAP, which seeks to increase the vitality and viability of the town centre within a regeneration framework with a strong focus on improvements to the built and natural environment.

Policy 7 - Development Opportunity Site 1- King Street/Flood Street

20. It was argued at the Examination Hearings that land south of New Mill Street and Oakeywell Street should be excluded from the Development Opportunity Site 1 due to its perceived peripheral location in relation to the town centre. However, based on the evidence presented at the examination hearings and my visit to the site and area, whilst I accept that the site is at the edge of the town centre it is still within reasonable walking distance of the heart of the town centre, with clear inter-visibility between the site and the Churchill shopping centre. Furthermore, the location of the site next to key transport routes would be conducive to securing high quality gateway development that would be likely to contribute towards strengthening the vitality and viability of the town centre as a whole. This approach is consistent with the Framework in that it seeks to provide customer choice and a diverse retail offer. Having reached this conclusion the allocation of Development Opportunity Site 1 is sound.

Policy 8 - Development Opportunity Site 2 - Trindle Road/Hall Street/Birdcage Walk

21. Representations received in writing and at the Examination Hearings have stated that there should be specific provision within Development Opportunity Site 2 for the provision of a motor dealership. In response to this the Council and representatives of the developer of the site stated that they had no objection in principle of such a use and that there was potentially scope for such a use within their overall approach to the site. However, it is not necessary for soundness to specifically allocate a site within the plan for the sale of motor vehicles given Policy 8 is consistent with the general support for the promotion of employment and town centre uses within the CS and the Framework in that it seeks to promote mixed use developments. Consequently, Policy 8 provides an adequate basis for the assessment of development proposals within this part of Dudley town centre and this is not altered by the omission of a direct reference to motor dealerships within Policy 8.

Policy 13 - Development Opportunity Site 7 – Castle Hill/Tipton Road

22. Policy 13 seeks to provide leisure, retail and employment development opportunities to support Dudley's existing tourism and leisure attractions that include Dudley Zoo and Castle and the Black Country Museum. Additionally, the Council are seeking to utilise part of the former Oxford, Worcester and Wolverhampton disused rail line to enable the development of a Very Light Rail Innovation Centre and 2km test track. The strategy is clear in that it seeks to ensure strong physical linkages to the town centre and as such contribute to its vitality and viability. This is consistent with the aims and objectives of DAAP Policy 20 Leisure and Tourism and CS Policy EMP6.
23. The approach for Development Opportunity Site 7 has been informed by Dudley Urban Historic Landscape Characterisation study (D13) to ensure that the proposals preserve the setting and therefore the significance of the Castle Hill Conservation Area, ensuring that there is no conflict with DAAP Policy 23. Overall this approach is consistent with the CS and the Framework and will support both economic growth and Dudley's role as the historical capital of the Borough.
24. Having reached the conclusions above, the Development Opportunity Sites (Policies 7 – 13) within the DAAP are consistent with the CS and therefore, the strategy within the plan with regard to the provision and allocation of land for town centre uses is both justified by the available evidence and sound.

Issue 4 – Do the DAAP's policies fully recognise Dudley's Historic Environment, and are they properly informed by the Urban Historic Landscape Characterisation Study?

25. The policies in the Plan's Historic Environment chapter (Policies 21 - 24) are informed by the Dudley Urban Historic Landscape Characterisation study (D13), and seek to preserve sub-regional historic character and local distinctiveness (Policy 21) in accordance with the CS. The DAAP is primarily concerned with ensuring that development relates and enhances the locally distinctive characteristics of Dudley and does not set out to repeat CS or national policy. The approach is welcomed by English Heritage and has widespread public support. Policies 22 and 23 relate to Dudley's two Conservation Areas (Dudley Town Centre and Castle Hill), and Archaeological Priority Areas (Policy 24). These provide a comprehensive and evidence based approach to Dudley's historic environment.
26. Consequently, having reached the conclusions above, the DAAP's approach to Dudley's Historic Environment is justified, and sound; consistent with the CS and the Framework. Moreover, this accords with the approach adopted in the Councils adopted AAP's.

Issue 5 - Landscape, Green Infrastructure and Nature Conservation - Are the Plan's policies sufficient to achieve the aim of achieving a well-connected landscape and public realm, including enhancement of the 3 public parks and key nature conservation sites?

27. A key theme of the DAAP is providing, protecting and enhancing a well-connected landscape and public realm (including relating development

proposals to the topography of the town centre). Policy 30 (Landscape, Survey, Analysis and Design Principles), Policy 31 (Public Open Space) and Policy 32 (Public Realm) together provide the context for strengthening and enhancing the network of open and public spaces. In addition, Policy 33 (Nature Conservation) seeks to ensure that Dudley's diverse and nationally recognised natural history is afforded adequate protection. This approach accords with CS Policy CSP3 which requires proposals to demonstrate that the network of environmental infrastructure in the Black Country will be protected, enhanced and expanded at every opportunity. Other CS Policies (ENV1 and ENV6) give further justification for the strong emphasis in the DAAP on landscape and public realm improvements and enhancements.

28. Therefore, having reached these conclusions with regard to Landscape, Green Infrastructure and Nature Conservation it follows that DAAP Policies 30 – 33 are justified by the available evidence and are therefore sound.

Monitoring and delivery

29. The Council's Annual Monitoring Report (CD4) will monitor the performance of the Plan and provides most of the necessary evidence on which to assess the success or failure of delivery and what alternatives might reasonably be provided if necessary. A full review of the DAAP during the plan period is not anticipated; although the monitoring regime should ensure that any risks to non-delivery are 'flagged up' and interventions made to alleviate risks should this prove necessary. Nevertheless, a review of the CS commenced in January 2016. Should strategic alterations be made to that document, the Council would need to review the LDS and DAAP as a consequence.

Assessment of Legal Compliance

30. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the Plan meets them all.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The Dudley Area Action Plan has been prepared in accordance with the Council's LDS 2015 - 2018.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in November 2006. Consultation on the Local Plan has complied with its requirements.
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Habitats Regulations Assessment (HRA)	The Habitats Regulations AA Screening Reports July 2014, January 2015 and November 2015 set out why AA is not necessary. Natural England support this.
National Policy	The Dudley Area Action Plan complies with national policy.
2004 Act (as amended) and 2012 Regulations.	The Dudley Area Action Plan complies with the Act and the Regulations.

Overall Conclusion and Recommendation

31. In accordance with Section 20(7) of the 2004 Act I recommend that the submitted Plan is adopted on the basis that it meets in full the requirements of Section 20(5) of the 2004 Act. My report covers the main issues that have led me to this conclusion.

Jameson Bridgwater

Inspector