

## Meeting of the Climate Change Select Committee 14 March 2024

### Report of the Director of Regeneration and Enterprise

### Planning Policies in relation to Renewable Energy & Climate Change

#### Purpose of report

1. This report covers, the current and future planning policies in relation to renewable energy and climate change and provides an overview of how developers have responded to emerging planning policies following the recent draft Dudley Local Plan consultation.

#### Recommendations

2. It is recommended that:-
  - Select Committee notes the current and future planning policy position in relation to renewable energy and climate change.

#### Background

##### Current Local Plan Policy Requirements

3. Dudley's existing planning policy documents have several policies in relation to renewable energy.
  - **Black Country Core Strategy (adopted 2011)- Policy ENV7 – Renewable Energy** requires developments of 10 residential units or more and non-residential developments of 1,000 sq meters to incorporate generation of energy from renewable sources sufficient to off-set at least 10% of the estimated residual energy demand of the development. Subject to viability and energy generation measures.

- **Dudley Borough Development Strategy (DBDS) (Adopted 2017)- Policy S3** – States that all Major<sup>1</sup> planning applications are required to be accompanied by an energy assessment to fulfil the objectives of Policy ENV7 and is supported by the Council’s Renewable Energy Supplementary Planning Document (SPD).
- **The DBDS Policy S1** – Presumption in favour of Sustainable Development, this sets out that a key aim is to ensure that we achieve sustainable forms of development across the borough in ways, which protect and enhance the wider environment and minimise the use of resources and consumption of energy. These policies objectives cut across the whole of the DBDS and the Core Strategy.

### Renewal Energy Supplementary Planning Document (SPD)

4. Supporting the above policies (ENV7 & S3), the Renewable Energy SPD (adopted in 2015) is key to delivering renewable sources of energy in the Borough, by encouraging new developments to increase the amount of energy provided by renewable sources.
5. The SPD provides detailed guidance on the Black Country Core Strategy Policy ENV7 (Renewable Energy) which requires all major developments to provide 10% of their energy from renewable sources. The SPD contains guidance on the range of renewable technologies that will be acceptable by the Council and provides step by step guidance on calculating 10% renewable energy requirement for the development.
6. The SPD is a material consideration when determining planning applications and aims to assist landowners, developers, builders and other relevant stakeholders to clarify how Policy ENV7 - Renewable Energy in the Black Country Core Strategy should be applied. It provides more detail on what applicants are required to submit to support planning applications and model planning conditions for Planning Officers to use when approving Planning Applications. It also sets out more details around viability and how this is considered against this policy requirement.

### Building Regulations and the Future Homes and Buildings Standard

7. In 2022, changes to Part L of the Building Regulations came into effect, which significantly improved energy efficiency standards for new homes. Further improvements under the “Future Homes Standard” are due in 2025 and will apply to planning applications in 2024. Such changes to Building Regulations (according to Government), *‘mark an important step on our*

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<sup>1</sup> Residential – 10 or more dwellings

Non-residential – Gross floor area of 1000m<sup>2</sup> or greater for new buildings

*journey towards a cleaner, greener built environment and it supports us in our target to reduce the UK's carbon emissions to net-zero by 2050'.*

8. The Future Homes Standard, renamed the Future Homes and Buildings Standard in December 2021, will become mandatory in 2025 and will complement the current Building Regulations to ensure new homes built from 2025 onwards produce 75-80% less carbon emissions than homes delivered under the old regulations. The new standards aim to decarbonise new homes by focusing on improving heating, hot water systems, and reducing heat waste. This could be achieved in part by replacing current technologies with low-carbon alternatives. For example, very high-quality building fabric (structural materials, insulation etc.), triple glazing standards and low-carbon heating through heat pumps will replace their older, less efficient counterparts.
9. As Building Regulations and National Requirements continue to seek that more is done through legislation the requirements for each Local Authority to require renewable energy/efficiency measures through planning policy will lessen over time.

#### Emerging Policies in the Draft Dudley Local Plan

10. The Council declared a climate emergency in 2020 and pledged to achieve net zero carbon by 2030 and be a Carbon Neutral Borough by 2041. Alongside this, the West Midlands Combined Authority declared a climate change emergency in June 2019 and committed to net zero carbon emissions by 2041.
11. Local planning authorities are bound by the legal duty set out in Section 19 of the 2004 Planning and Compulsory Purchase Act, as amended by the 2008 Planning Act, to ensure that planning policy contributes to the mitigation of and adaptation to climate change. Furthermore, the National Planning Policy Framework (NPPF) addresses the duty of planning in helping to contend with a changing climate and the vulnerabilities it generates in the built and natural environments. This includes planning for zero and low carbon development, requiring renewable and low carbon energy supply, reducing emissions and greenhouse gases, the mitigation of flood risks and employing appropriate policy and design solutions to address rising temperatures, ventilation, the need for additional green infrastructure and the protection of the natural environment.
12. The NPPF also states that (local) plans should take a proactive approach to mitigating and adapting to climate change. As part of this, new development should be planned for in ways that can help to eliminate

greenhouse gas emissions, through careful consideration of matters such as its location, orientation and design.

13. In late 2022/early 2023, work commenced on the preparation of the [Draft Dudley Local Plan](#) (DLP). The policies and site allocations that make up the DLP set out the scale and distribution of new development for the Local Plan period to 2041. Once adopted, the DLP will supersede all current planning policy documents as outlined in section 3.
14. The strategic objective of the DLP is to ensure that new development takes a proactive approach to climate change mitigation, adaptation and carbon reduction, and that development is resilient to climate change. Other objectives include improving energy efficiency and a move towards becoming zero carbon and helping to decarbonise the transport system by sustainably locating development.
15. The [Draft DLP Part One document](#) contains a suite of new/updated policies designed to help Dudley mitigate and adapt to the changing climate and carbon reduction and renewable energy at a strategic level, in line with the Council's climate emergency declaration and its emerging Climate Change Action Plan. The timescales for implementing these targets/measures correspond to the timescale of the emerging Dudley Local Plan (DLP) which has a plan period to 2041.
16. Through the Draft DLP, existing policies have been updated and new policies introduced setting out requirements in relation to renewable energy and climate change. The following policies aim to ensure that future developments address national energy and climate change objectives:
  - **Policy DLP41 Increasing Efficiency and Resilience.** Policy DLP41 sets out how new development proposals will be required to demonstrate they are designed to maximise resistance and resilience to climate change through a range of design requirements.
  - **Policy DLP42 - Energy Infrastructure.** To help increase the use and supply of renewable and low carbon energy and heat, plans should provide a positive strategy for energy from these sources. Policy DLP42 sets out how energy infrastructure will be considered, including how opportunities for decentralised energy and communal heating will be identified.
  - **Policy DLP43 Managing Heat Risk.** As part of the plan's proactive approach towards mitigating and adapting to climate change, Policy DLP4 sets out the requirements for managing heat risk within new development proposals.

- **Policy DLP47 Renewable and Low Carbon Energy and BREEAM<sup>2</sup> Standards.** It is essential for the successful delivery of the DLP that a high standard of sustainable design is secured on all new developments over the Plan period. This will reduce carbon emissions from new development, improve design quality and "liveability" and help create a high-quality environment, which in turn will maximise economic competitiveness and housing choice. Policy DLP47 sets out requirements and thresholds for renewable energy generation and offsetting of energy demand on new developments, as well as well as requirements for new non-residential new build developments to meet BREEAM standards.

Alongside the above, there are updated policies around:

- **Policy DLP41 Air Quality.** The need to address climate change and its associated impacts will include the need to tackle pollution and poor air quality, especially where it has impacts on both human and environmental health. Policy DLP41 along with other plan policies will support a diverse approach to addressing the issue of air quality across the borough, including promoting a modal shift to public transport alternatives and more active travel, measures relating to energy generation at developments, provision and protection of green open spaces and significant additional tree cover.
- **Policy DLP45 Flood Risk.** Climate change projections show an increased chance of warmer, wetter winters and hotter, drier summers, with a higher likelihood of more frequent and intense rainfall. This is likely to make severe flooding occur more often. Ensuring that developments are planned to avoid vulnerability and manage risks with suitable adaptation measures where required will help to mitigate against related adverse impacts and disruptions. Policy DLP45 will seek to minimise the probability and consequences of flooding from all sources by adopting a strong risk-based approach to site allocations and the granting of planning permission, in line with the NPPF.
- **Policy DLP46 Sustainable Drainage and surface water Management (SuDS).** As a heavily urbanised borough much of the land in Dudley is covered in impervious surfaces (such as roads, pavements, hardstanding, and rooftops), which are water-resistant and prevent rainwater from soaking away into the ground. This has led to a high dependence on hard engineering solutions to manage rainwater run-off, storage and drainage, and has increased the risk of

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<sup>2</sup> Building Research Establishment Environmental Assessment Methodology

isolated surface water flooding. Policy DLP46 sets out the requirements for new development to incorporate sustainable drainage and surface water management solutions (SuDS), to increase the amount of rainwater that is drained in sustainable ways.

Other policies also address issues around greener transport infrastructure, such as electric charging points, improved access to public transport and the need to support and promote active travel initiatives.

### Developers' Responses to Emerging DLP Policies

17. From 10<sup>th</sup> November to 22<sup>nd</sup> December 2023 the DLP was subject to a public consultation exercise. As part of this several representations were received from developers on the proposed climate change/renewable energy policies.
18. Work is still ongoing to analyse the representations that were made, and a high-level summary of responses is set out below:

#### DLP41 Increasing Efficiency and Resilience

- Policy requires further refinement.

#### DLP42 Energy Infrastructure

- Objections to decentralised energy provision on the grounds of scheme feasibility
- The Policy seeks to go above Future Homes Standard unnecessarily and with no justification for this.
- Decentralised energy provision could make schemes unviable.

#### DLP47 Renewable and Low Carbon Energy and BREEAM Standards

- The proposed 10% renewable offset against energy demand and 20% energy reduction figures seem arbitrary.
- Renewable energy should not be mandatory but implemented on a flexible basis. In time national grid will be decarbonised
- The policy can affect scheme viability. The method of reducing carbon emissions should not need to be specified.

No representations were received from developers on the following draft policies: DLP41 Air Quality, DLP45 Flood Risk, DLP46 Sustainable Drainage and surface water Management (SuDS).

19. The Dudley Local Plan Viability and Delivery Study (2023) which was produced to test the viability of all the proposed Draft Plan policies, has demonstrated that this level of requirement will not prejudice the delivery of

most major developments in Dudley. The viability study has assumed a cost of £6,500 per dwelling unit to meet the Building Regulations and the Future Homes and Buildings Standard. Furthermore, viability will be assessed on a case-by-case basis as part of the planning application process.

Dudley Council Climate Change Action Plan

20. The policies within the Draft DLP support actions within the Draft Climate [Dudley Council Climate Change Action Plan](#). The table below demonstrates the Climate Change Action Plan priorities and how the draft Plan Policies support these actions.

Climate Change Action Plan	Relevant Dudley Local Plan policy reference number
Produce a set of local planning policies that ensure that all new development, both residential and non-residential, follow the principles of the energy hierarchy and minimise energy demand through fabric energy efficiency measures and then meet all residual energy demand via renewable energy technologies.	<b>Policy DLP47</b> Renewable and Low Carbon Energy and BREEAM Standards
Ensuring that all new development, both residential and non-residential, follow the principles of the energy hierarchy and minimise energy demand through fabric energy efficiency measures.	<b>Policy DLP47</b> Renewable and Low Carbon Energy and BREEAM Standards
Produce new planning policy to support retrofitting of energy efficiency measures in heritage buildings as part of the draft Local Plan process.	<b>Policy DLP41</b> Increasing Efficiency and Resilience
Through the development of the new Draft Local Plan, develop policy that supports the need to adapt to the impacts of climate change and promotes	<b>Policy DLP4</b> Achieving well designed places.  <b>Policy DLP33</b> Provision, retention and protection of trees, woodlands,

<p>opportunities to maximise carbon sequestration.</p>	<p>Ancient Woodland, and Veteran trees</p> <p><b>Policy DLP41</b> Increasing Efficiency and Resilience</p> <p><u>Carbon Sequestration:</u></p> <p><b>Policy DLP 51</b> Dudley Borough's Green Infrastructure Network</p> <p><b>Policy DLP 31</b> Nature Conservation</p> <p><b>Policy DLP 32</b> Nature Recovery Network and Biodiversity Net Gain</p> <p><b>Policy DLP 33</b> Provision, retention and protection of trees, woodlands and ancient woodland.</p> <p><b>Policy DLP 49</b> Green Belt</p>
<p>Open Space, trees and the Green Network support the Action Plans aims of maximising opportunities for carbon sequestration.</p>	<p><b>Policy DLP 51</b> Dudley Borough's Green Infrastructure Network</p> <p><b>Policy DLP 31</b> Nature Conservation</p> <p><b>Policy DLP 32</b> Nature Recovery Network and Biodiversity Net Gain</p> <p><b>Policy DLP 33</b> Provision, retention and protection of trees, woodlands and ancient woodland.</p> <p><b>Policy DLP 49</b> Green Belt</p>



## **Finance**

21. There are no financial implications arising from this report.

## **Law**

22. It is necessary to ensure that the Borough-wide local plan review is undertaken in accordance with various legal provisions as set out in the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Planning) (England) Regulations 2012.

In terms of the processing of planning applications, the Town and Country Planning (Development Management Procedure) (England) Order 2015 sets out of the step local authorities need to take, with regard to the processing and administration of planning applications.

## **Risk Management**

23. There are no material risks resulting from this report.

## **Equality Impact**

24. The Dudley Local Plan has been subject to an Equalities Impact Assessment (EQIA) as part of its preparation.

## **Human Resources/Organisational Development**

25. It is considered that there are no additional human resources or organisational development implications resulting from this report. Work on the DLP will be carried out by the Planning Policy Team in the Regeneration & Enterprise Directorate with assistance from officers in other Departments where necessary.

## **Commercial/Procurement**

26. There are not considered to be any commercial or procurement implications as a result of this report.

## **Environment/Climate Change**

27. Climate change, environmental and sustainability matters form a core element of any development plan.

28. The Council is required to assess the environmental impacts of any Plan which it produces. Accordingly, each stage of the Plan review process will be accompanied by a Sustainability Appraisal and a Habitats Regulation Assessment.
29. By establishing a Borough Local Plan, the policies within the Plan will work towards addressing Climate Change and net zero carbon emissions by 2041.

### **Council Priorities and Projects**

30. It is envisaged that the Dudley Local Plan will positively contribute towards our partnership Borough Vision 2030 – forging a future for all. Through the plan preparation which will make provision for:-
  - Growth in housing and other land uses informed by public consultation so that communities can live in healthy places that build a strong sense of belonging and cohesion, working towards a place of healthy, resilient, safe communities.
  - A comprehensive network of green infrastructure and an integrated and well-connected multifunctional open space network delivering opportunities for sport and recreation whilst establishing and supporting a strong natural environment creating an affordable and attractive place to live.
  - Land use allocations including employment and residential use, thereby encouraging economic growth, enhancing the district and providing certainty for investment working towards a borough home to a host of innovative and prosperous businesses.

The Dudley plan also reflects the importance of financial sustainability which will be a key council priority for the coming year though:-

- Supporting future housing needs by allocating land for new housing and policies for different tenures and affordable housing provision. Make provision for land use allocations and policies ensuring growth is done in a sustainably manner and with the balanced infrastructure provision.



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## **Appendices**

None attached.

## **List of Background Documents**

Dudley Borough Development Strategy

<https://www.dudley.gov.uk/residents/planning/planning-policy/dudley-local-plan/dudley-borough-development-strategy/>

Black Country Core Strategy <http://blackcountrycorestrategy.dudley.gov.uk/>

Draft Dudley Local Plan 2041

<https://www.dudley.gov.uk/residents/planning/planning-policy/dudley-local-plan/draft-dudley-local-plan-consultation/dudleys-draft-local-plan-consultation-documents/>

Renewable Energy Supplementary Planning Document (SPD)

<https://www.dudley.gov.uk/residents/planning/planning-policy/dudley-local-plan/renewable-energy-supplementary-planning-document-spd/>