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Shropshire Local Plan Examination

Additional Response to Matter 2: The Duty to Co-operate

Land at Wolverhampton Road, Shifnal

L&Q Estates

December 2022

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1.0 Introduction

- 1.1 This additional statement to Matter 2 (The Duty to Co-operate) of the examination of the Draft Shropshire Local Plan (“DSL”) is submitted by Lichfields on behalf of L&Q Estates Limited (“L&Q Estates”).
- 1.2 It follows the submission of representations to the stage 1 hearing sessions in July 2022, covering numerous legal and strategic issues, in respect of land north of Wolverhampton Road, Shifnal (Site Ref. SHF023 and associated safeguarded land) in which L&Q Estates has land interests. For reference, these representations are submitted under representor reference **A0148**.

2.0 General

Question 1: It has emerged that the Association of Black Country Authorities (ABCA): Dudley, Sandwell, Walsall and Wolverhampton have decided to cease work immediately on the Joint Black Country Local Plan and instead each develop their own Local Plan to a timescale to be agreed by each authority (GC19). What implications, if any, does this have for the examination in relation to the duty to cooperate in the preparation of the Local Plan and the submitted statements of common ground (SoCG) with ABCA?

- 2.1 L&Q Estates considers this does **not** adversely impact the examination in relation to the duty to cooperate and the submitted SoCGs with ABCA.
- 2.2 Principally, the unmet housing need as collectively declared by ABCA still remains unmet and will therefore still require to be accommodated by neighbouring authorities in accordance with NPPF paragraph 35(a).
- 2.3 The table below sets out the Black Country Authorities' housing need and supply position for the period 2020-2039, being the period upon which the abandoned draft Black Country Plan was based.
- 2.4 The housing supply sources are taken from both the July 2021 and September 2022 draft Black Country Plan ("BCP"), whilst the local housing need figure is based upon the latest affordability data by ONS in April 2022.

Table 2.1 Black Country Authorities housing need and supply position 2020-39

		Dudley	Sandwell	Walsall	Wolverhampton	Total
Source of New Housing Supply						
Existing supply as of April 2020	A: Sites Under Construction	978	624	1,255	2,401	5,258
	B: Sites with Permission or Prior Approval	1,867	2,577	1,105	1,831	7,380
	C: Sites with Other Commitments (2020 SHLAAs)	833	102	2,691	176	3,802
	D: Existing Housing Allocations in Strategic Centres	2,506	201	18	2,248	4,973
New Supply	E: Employment Land Release	732	1,882	0	477	3,091
	F: Other Sources	2,739	2,013	1,402	767	6,921
	G: Windfalls	2,816	1,728	1,455	2,464	8,463
	H: Additional Sites in Strategic Centres	350	200	0	750	1,300
	I: Green Belt Release (BCP July 2021)	1,117	171	5,418	1,014	7,720
	J: Green Belt Release (BCP Walsall-Only Sep 2022)	0	0	820	0	820
Loss	Estimate Housing Demolitions 2020-39	-703	-340	0	-28	-1,071
Total	Total net supply (with Green Belt Release)	13,235	9,158	14,164	12,100	48,657
	Total net supply (without Green Belt Release)	12,118	8,987	7,926	11,086	40,117
Local housing need (April 2022)						
Annual		647	1,515	909	1,080	4,151
Plan period 2020-2039		12,293	28,785	17,271	20,520	78,869
Shortfall						
With Green Belt release		-942	19,627	3,107	8,420	30,212
Without Green Belt release		175	19,798	9,345	9,434	38,752

Source: Black Country Plan 2021 / Black Country Plan September 2022 / Lichfields

- 2.5 As shown, if all four Black Country Authorities were to proceed with allocating the Green Belt sites identified within the July 2021 and September 2022 draft BCP, there would still remain a collective shortfall of **30,212 dwellings**. A shortfall of **38,752 dwellings** would arise if all four authorities did not release sites from Green Belt.
- 2.6 In particular, the greatest shortfall arises out of Sandwell, followed by Wolverhampton and Walsall. Indeed, should Dudley not release any Green Belt land for housing, it would only need to identify an additional 175 dwellings in order to meet its own local housing need in full.
- 2.7 Moreover, it is important to note that these constituent shortfalls do not account for any uplifts to the local housing need figure for other development needs, as advised by the Planning Practice Guidance ("PPG"), such as:

- Growth strategies for the area that are likely to be deliverable, for example where funding is in place to promote and facilitate additional growth (e.g. Housing Deals)¹;
- Strategic infrastructure improvements that are likely to drive an increase in the homes needed locally²; and
- An increase in the total housing figures included in the plan may need to be considered where it could help deliver the required number of affordable homes³.

2.8 Consequently, both the overall and constituent shortfalls may likely be larger than that identified above as and when each Black Country authority establish their housing and economic need position.

2.9 It is therefore clear that all four authorities – or at the very least Sandwell, Wolverhampton and Walsall – will inevitably be required to export their respective shortfalls to their neighbouring authorities, including that of Shropshire, outside of the Black Country.

2.10 Whilst this shortfall will now not be exported by the “Black Country Authority” as a whole, it will however be exported by the four individual authorities: put simply, the unmet housing need has not simply disappeared as a result of the withdrawn Black Country Plan.

2.11 This position is now becoming increasingly likely when considering the directives and aspirations of each constituent authority at their respective Special Cabinet Meetings:

- [Wolverhampton Cabinet – 26th October 2022](#)

“The only way the Council can guarantee a five year housing land supply in the long term is by adopting a Local Plan based on a deliverable housing target made up of a pipeline of sites within the City, and maximising opportunities in neighbouring areas through the Duty to Cooperate.” (Paragraph 2.4) [Emphasis added]

- [Walsall Cabinet – 2nd November 2022](#)

“The capacity of Green Belt sites currently proposed in Walsall in the draft BCP, combined with other sources of supply including sites within the existing urban area mainly involving previously developed land, and exporting need to neighbouring local authorities that have already provisionally agreed to accept some, would be almost sufficient to meet Walsall’s housing need to the end of the plan period in 2039. However, this would not provide any supply to meet the needs of Sandwell, or the emerging needs of Birmingham, and assumes that the ‘offers’ made by authorities in the shire areas would continue.” (Paragraph 4.12) [Emphasis added]

- [Dudley Cabinet – 14th November 2022](#)

“The Councils will continue to co-operate with each other and with other key bodies, as part of their duty to co-operate requirements, as they prepare their Local Plans.” (Paragraph 13) [Emphasis added]

- [Sandwell Cabinet – 16th November 2022](#)

¹ PPG ID: 2a-010-20201216

² PPG ID: 2a-010-20201216

³ PPG ID: 2a-024-20190220

“Furthermore, any potential exporting of unmet need would have to be demonstrated through ‘Duty to Cooperate’ discussions. Evidence previously prepared for the BCP clearly shows that neighbouring authorities can, if willing, help met this need through the ‘Duty to Cooperate’ (outlined below).” (Paragraph 4.25) [Emphasis added]

2.12 As particularly highlighted by Walsall Council at its Special Cabinet Meeting, there remains an implied assumption by the Black Country authorities that their neighbouring authorities who have already agreed to accommodate a proportion of the unmet need, including Shropshire, will continue to do so despite the Black Country Plan withdrawal.

2.13 It is therefore critical that these authorities continue to plan for such additional need on the basis that it has not disappeared, as opposed to consider alternative directions of travel such as accommodating an alternative scale of need or, worse, not accommodating any of this need at all.

2.14 In this regard, L&Q Estates considers this approach would align with the position taken by South Staffordshire Council at its meeting of [Cabinet](#) on 8th November 2022 in respect of its own emerging Local Plan, which is currently at the Regulation 19 stage of consultation:

“If we do not make good progress preparing the Local Plan, which includes meeting some of the wider housing shortfalls from our Housing Market Area, we may be challenged under Duty to Cooperate for ignoring the need to contribute to unmet housing needs. This may then result in pressure for a significantly higher number to be tested. However, making progress with our Plan in accordance with agreed timescales, helps to shape expectations as to what will be required from other HMA authorities, refocusing attention on those other authorities who are not currently committing to make a reasonable contribution to housing needs.”

2.15 In summary, it is considered that the withdrawal of the Black Country does **not** adversely impact the Shropshire examination in relation to the duty to cooperate and the submitted SoCGs with ABCA.

Question 2: Are the SoCG with neighbouring authorities and stakeholders still relevant and up to date?

2.16 L&Q Estates considers that the SoCG with its neighbouring authorities, and particularly with the Black Country authorities is both relevant and up to date.

2.17 The “Statement of Common Ground between Shropshire Council and the Association of Black Country Authorities (ABCA)” (July 2021) is set out at Document EVO41.

2.18 The SoCG was “produced to support the Shropshire Council Local Plan Review” and “sets out how Shropshire Council has engaged with the Association of Black Country Authorities (ABCA) on behalf of the Black Country local authorities in order to fulfil its Duty to Cooperate requirements” (paragraph 2.1). Whilst the SoCG is agreed and signed by all four individual Black Country authorities, it notes the following:

“For the avoidance of doubt, this Duty to Cooperate is between Shropshire Council and the Association of Black Country Authorities (ABCA), and not between Shropshire Council and the individual local authorities who are members of ABCA.” (paragraph 2.2)

2.19 Indeed, the fact that the SoCG is not between Shropshire Council and the four individual Black Country authorities would suggest that it is now out-of-date given the withdrawal of the Black Country Plan.

2.20 In this respect, given the uniqueness of the circumstances surrounding the withdrawn Black Country Plan and associated unmet need, the PPG advises little in how best to address this scenario. However, the PPG⁴ does provide guidance on the geographical area to which a SoCG should cover:

“Which geographical area does a statement of common ground need to cover?”

The statement will need to cover the area which strategic policy-making authorities and public bodies cooperate during plan-making. This will depend on:

- the strategic matters being planned for, informed by a review of the matters affecting the area and early engagement with neighbouring authorities, communities and other key stakeholders; and*
- the most appropriate functional geographical area to gather evidence and develop policies to address these matters, based on demonstrable cross-boundary relationships.*

For example, housing market and travel to work areas, river catchments, or landscape areas may be a more appropriate basis on which to plan than individual local planning authority, county, or combined authority areas. Cooperation between these different tiers (counties, districts and combined authority areas) may be needed. Authorities may well work in different groupings to address different strategic matters. Authorities should be pragmatic in determining the areas.” [Emphasis added]

2.21 Therefore, whilst the four constituent Black Country authorities are not individually party to the SoCG, the SoCG nonetheless relates to the housing market area comprising the Black Country and its inter-functional relationship with Shropshire. Indeed, the SoCG recognises that although “the Shropshire Council area is considered to represent a self-contained housing market area (HMA)” (paragraph 6.3), “there are strong links, particularly for commuting, between the eastern part of Shropshire and the Black Country” (paragraph 6.4).

2.22 As earlier established, the withdrawal of the Black Country Plan does not mean the unmet housing need arising out of the Black Country area has now disappeared. Indeed, section 33A(4)(a) of the Planning and Compulsory Purchase Act 2004 defines the “strategic matters” on which cooperation is required:

“...sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas...” [Emphasis added]

2.23 It is notable that section 33A(4)(a) relates to the “*planning area*” rather than the “*planning authority*” as this clearly suggests that the strategic matters relating to the Black Country,

⁴ PPG ID: 61-017-20190315

namely the unmet housing need, should be considered on a geographic basis (“*planning area*”) and not on an administrative basis (“*planning authority*”).

- 2.24 By this logic, it would be inappropriate to conclude that the SoCG is no longer relevant and up-to-date simply because the four authorities are not individually party to the SoCG. Neither the NPPF nor PPG expressly stipulate that SoCGs should be considered out-of-date in the event of such a scenario occurring: deducing such a conclusion would not be within the spirit of town planning.

3.0 **Overall Housing Provision**

Question 3: Having regard to the additional evidence that has been submitted by the Council (GC15 – GC15I), has the Council maximised the effectiveness of the Local Plan by engaging constructively, actively and on an ongoing basis with the prescribed bodies on housing matters during the preparation of the Local Plan?

- 3.1 **Yes**, the Council has maximised the effectiveness of the Local Plan by engaging constructively, actively and on an ongoing basis with the prescribed bodies on housing matters during the preparation of the Local Plan.
- 3.2 As set out above, the engagement between Shropshire Council and the Black Country constituent authorities is sufficiently evidenced through the SoCG (Document EVO41) and, for the reasons set out above, is considered both relevant and up-to-date.

Question 4: What has been the outcome of co-operation and how has this addressed the issue of overall housing provision?

- 3.3 The outcome of co-operation between Shropshire Council and the Black Country constituent authorities has resulted in the Draft Shropshire Local Plan accommodating a 1,500-dwelling proportion of the unmet housing need arising out of the Black Country HMA.
- 3.4 As a result of the SoCG (Document EVO41) between Shropshire Council and the Black Country constituent authorities, this outcome is considered sufficient in order that the Duty to Cooperate has been fulfilled.

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