

**ID 24**  
**SHROPSHIRE LOCAL PLAN EXAMINATION**

**Stage 1 Hearing Statement**

Representor unique Part A Ref	A0621
Matter	1: The Duty to Cooperate
Relevant questions nos	1 – 6 (inclusive)

**SHROPSHIRE LOCAL PLAN**  
INDEPENDENT EXAMINATION  
WRITTEN HEARING STATEMENT



**MATTER 1**  
**DUTY TO CO-OPERATE**

**HARROW ESTATES**  
RESPONDENT REFERENCE: A0621  
DECEMBER 2022

Issue / revision	<b>Draft</b>	Prepared by	T Ryan
Reference	161835	Signature	TR
This document is issued for		Date	
<input type="checkbox"/> Information	<input checked="" type="checkbox"/> Approval	Checked by	J Mulliner
<input type="checkbox"/> Comment	<input type="checkbox"/> Submission	Signature	JM
Comments		Date	07.12.22
		Authorised by	J Mulliner
		Signature	JM
		Date	09.12.22
		Please return by	

**LONDON**  
23 Heddon Street  
London  
W1B 4BQ

**BIRMINGHAM**  
3 Edmund Gardens  
117 Edmund Street  
Birmingham  
B3 2HJ

**BOURNEMOUTH**  
Everdene House  
Deansleigh Road  
Bournemouth  
BH7 7DU

**TELEPHONE**  
020 3664 6755

[www.torltd.co.uk](http://www.torltd.co.uk)

© Terence O'Rourke Ltd 2022. All rights reserved.  
No part of this document may be reproduced in any form or stored in a retrieval system without the prior written consent of the copyright holder.

All figures (unless otherwise stated) © Terence O'Rourke Ltd 2022.  
Based upon the Ordnance Survey mapping with the permission of the Ordnance Survey on behalf of Her Majesty's Stationery Office © Crown Copyright Terence O'Rourke Ltd Licence number 100019980.

Terence O'Rourke Ltd Reg.  
No.1935454 Registered office  
Everdene House Deansleigh  
Road Bournemouth Dorset  
BH7 7DU Registered in England  
and Wales VAT No.905095727

## **1.0 Introduction**

- 1.1 This examination hearing statement is submitted on behalf of Harrow Estates in respect of Matter 1 (Duty to Cooperate) of the Shropshire Local Plan examination in public.
- 1.2 The comments respond directly to the questions set out in the Planning Inspectors' Stage Matters, Issues and Questions document (ID24).
- 1.3 This statement should be read in conjunction with Harrow Estates' Regulation 19 representations (response reference: A0621).

## 2.0 Response to the Inspectors' questions

Issue	Whether the Council has complied with the duty to cooperate in the preparation of the Local Plan.
-------	---

- 2.1 The responses are made in accordance with the Inspectors guidance and in relation to Harrow Estates interests at Shifnal, specifically the employment allocations referenced SHF018b and SHF018d and their interests at the former draft housing allocation at SHF032.
- 2.2 The responses provided below further our position as set out in our Regulation 19 representations, made on behalf of Harrow Estates.
- Q1 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?**
- 2.3 Harrow Estates support the approach that Shropshire Council has taken in assessing and considering external influences on the new Local Plan's development requirements. This includes the engagement that had been made with the Association of Black Country Authorities (ABCA), the organisation until now representing the authorities which comprised the former Joint Black Country Local Plan area.
- 2.4 Whilst the decision to not pursue a joint Black Country Local Plan places future uncertainty over how the duty to cooperate will be met, it is important to highlight that, because the Shropshire Plan was progressing in advance of the Black Country Plan in any event, the precise extent of unmet development need had not been established. In this context, it remains the case that, the evidence that supported the emerging Black Country Plan remains accurate and relevant for the local plans under preparation between each Authority. This is particularly the case given that the evidence is up to date and within the spatial scope of the Black Country authorities areas. This has been recognised by the Black Country Authorities. For example, Wolverhampton Council stated their intention to utilise the existing evidence base in their 26 October 2022 Local Development Scheme Cabinet report that preparation of new Local Plans will; *"[...] will make the most effective use of the work undertaken to date..."* A copy can be seen at Appendix A.
- 2.5 Consequently, the Local Plan evidence which ABCA have collated should remain accurate and relevant to the Shropshire Local Plan, specifically that which relates to development needs of the sub-region.
- 2.6 Nonetheless, as a joint spatial strategy will no longer unify the Black Country Authorities, there is a risk that each individual Authority will pursue radically

different strategies to each other, which could impact the development quantum agreed between Shropshire and the Black Country.

- 2.7 An example of this is the apparent approach pursued by Dudley Council, which has sought an alternative spatial strategy that will not release sites from the Green Belt. This was the motive behind the Council's withdrawal from the Joint Local Plan. As such, this will limit Dudley's ability to accommodate the entirety of its need within its administrative boundaries. Ultimately, and in due course, this will require further Duty to Cooperate dialogue between Dudley and external stakeholders, such as Shropshire Council and their potential to accommodate cross-boundary development need.
- 2.8 However, in the meantime and in relation to the preparation of the Shropshire Plan in its current context, it is considered that the evidence which has been submitted in relation to the Duty to Cooperate should satisfy the statutory tests, as referenced in the National Planning Policy Framework and the Planning Practice Guidance. It shows effective and ongoing engagement through the process to date, ensuring that Shropshire has made a reasonable, interim, offer to accommodate some of the unmet development needs from the Black Country sub-region.
- 2.9 Whilst this evidence should be considered as satisfying the statutory tests and contributing towards preparation of a sound Plan, given the significant change in strategic circumstances of the Black Country Authorities, the approach Shropshire has taken to engaging the Authorities will need to change. This should include establishing relationships with individual Authorities, rather than ABCA.
- Q2 Are the SoCG with neighbouring authorities and stakeholders still relevant and up to date?**
- 2.10 Harrow Estates' position is that further work will need to be conducted by Shropshire Council to establish new areas of agreement between itself and the authorities which comprise the Black Country. This points towards an early review of the local plan.
- 2.11 Notwithstanding that the Statement of Common Ground (SoCG) signed between Shropshire and the Black Country Authorities (EV041) comprises of **individual** signatures representing the Black Country Authorities **independently**, the content of the SoCG is no longer entirely accurate. This is because it reflects the strategy of ABCA, which is no longer the representative body for the constituent Councils and not a stakeholder of relevance to the Shropshire Local Plan.
- 2.12 Harrow Estates consider therefore that the current SoCG is out of date and is no longer representative of the circumstances of the Black Country Authorities and their local planning policy position which infringes with the requirements of Paragraph 27 of the NPPF.
- 2.13 New statements should be sought between the individual Authorities, with particular significance on Wolverhampton and Dudley which are recognised as the Councils with the closest functional ties with Shropshire, to either confirm the position or future intentions that would inform early review of the plan.

- Q3** Having regard to the additional evidence that has been submitted by the Council (GV15 – 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?
- 2.14 Harrow Estates consider that the submitted evidence provided by Shropshire Council at GC15 – GV15I demonstrates that they have engaged adequately with relevant stakeholders, primarily the Black Country Authorities via ABCA. This has resulted in an agreed, but what should be considered to be ‘interim’, arrangement for some cross-boundary need to be delivered in Shropshire.
- Q4** What has been the outcome of co-operation and how has this addressed the issue of overall housing provision?
- 2.15 The outcome of the co-operation is presented within the Statement of Common Ground between ABCA and Shropshire Council (ref EV041). It establishes the agreement between the parties that Shropshire will accommodate a certain figure of unmet housing need on behalf of the Black Country Authorities, derived from quantified and measurable relationships between the two areas.
- 2.16 Whilst Harrow Estates consider that this area of agreement, contained within the SoCG demonstrates a positive outcome to the Duty to Cooperate process, it is contended whether this area of agreement is effective and in accordance with national guidance.
- 2.17 As a consequence of the failure of the joint Black Country Local Plan, ABCA is no longer a relevant stakeholder and does not represent the authorities of the Black Country. As such the agreed strategy to accommodate cross-boundary provision between Shropshire and the Black Country will need to be re-addressed / reconfirmed, which will likely require new and further dialogue under the Duty to Cooperate between each Authority individually, and, we would anticipate, agreement for early review of the plan.
- 2.18 In any event, further discussions under the Duty to Cooperate should include consideration of opportunities to uplift cross-boundary housing provisions, particularly if the strategies pursued by the Black Country Authorities shift from the previous approach, particularly where this will reduce their overall capacity to meet their own development needs.
- 2.19 As a consequence, Harrow Estates stress that where these circumstances arise, additional sites should be considered so that strategic housing provisions can be fully met and the Duty to Cooperate fully achieved in accordance with the NPPF.
- Q5** 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 employment related matters during the preparation of the Local Plan?
- 2.20 Harrow Estates consider that the submitted evidence provided by Shropshire Council at GC15 – GV15I demonstrates that they have engaged adequately with relevant stakeholders, primarily the Black Country Authorities via ABCA. This has

resulted in an agreed arrangement for some cross-boundary need to be delivered in Shropshire on behalf of the ABCA.

**Q6 What has been the outcome of co-operation and how has this addressed the issue of jobs growth and employment land provision?**

- 2.21 Document EV041, the agreement contained within the Statement of Common Ground between ABCA and Shropshire Council, demonstrates that there has been effective and constructive engagement between the parties and has resulted in an agreed employment land figure to be delivered by Shropshire Council on behalf of ABCA.
- 2.22 However, whilst Harrow Estates consider that the provision has been agreed adequately under historical circumstances, it is not indicative of the position as it stands currently. The failure of the Black Country Joint Plan will inevitably result in diverging spatial strategies between the Authorities of the Black Country, which will result in new development pressures. In such a situation, new Duty to Cooperate discussions will be required to confirm the position, test the agreed cross-boundary provisions that are being accommodated by Shropshire, and, we would anticipate, agree a process and timetable for early review of the plan.
- 2.23 In the meantime, for the current plan, the situation demonstrates the significance for Shropshire in retaining its allocated sites that form the draft spatial strategy. It should also indicate to the Council that it will need to consider the possibility for further discussion, in the case where Shropshire could potentially be asked to review its position in accommodating further cross-boundary employment land.

Appendix A – Wolverhampton City Council Cabinet Report (26 October 2022)



<b>Report title</b>	Wolverhampton Local Development Scheme	
<b>Decision Designation</b>	AMBER	
<b>Cabinet member with lead responsibility</b>	Cllr Stephen Simkins Deputy Leader: Inclusive City Economy	
<b>Key decision</b>	Yes	
<b>In forward plan</b>	No	
<b>Wards affected</b>	All Wards	
<b>Accountable Director</b>	Richard Lawrence, Director of Regeneration	
<b>Originating service</b>	Planning	
<b>Accountable employee</b>	Michele Ross Tel Email	Lead Planning Manager Tel: 01902 554038 michele.ross@wolverhampton.gov.uk
<b>Report has been considered by</b>	Regeneration Leadership Team Strategic Executive Board	9 October 2022 9 October 2022

---

### Recommendations for decision:

The Cabinet is recommended to:

1. Approve the Wolverhampton Local Development Scheme (2022-2025) attached as Appendix 1 to this report, upon formal confirmation that the Draft Black Country Plan is no longer proceeding.
2. Request a further report to approve Issues and Preferred Options consultation on a Wolverhampton Local Plan covering the period to 2040, which will build on work already completed through the Draft Black Country Plan.

### Recommendation for noting:

The Cabinet is asked to note:

1. The Black Country Plan preparation process has now ceased following the announcement of the intended withdrawal of Dudley Council.

## 1.0 Purpose

- 1.1 On 6 October 2022, the Leader of Dudley Council announced via a press statement that he would be recommending to his Cabinet that the Council withdraw from the Black Country Plan (BCP) preparation process.
- 1.2 The BCP would have become the key statutory Local Plan document for Wolverhampton, replacing the out-of-date Black Country Core Strategy (2011) and elements of Wolverhampton specific Area Action Plans. The Government requires all local authorities to have an up-to-date Local Plan by 2023. Not having an up-to-date local plan will undermine the Council's ability to prevent unwanted development from taking place and put at risk funding to support the delivery of key regeneration projects. It is therefore essential that the Council proceeds with the preparation of its own Local Plan in the most timely manner to address the vacuum caused by the fragmentation and cessation of the BCP.
- 1.3 This report seeks approval to prepare a new Local Plan for Wolverhampton as quickly as possible, based on the principle of taking forward the parts of the Draft Black Country Plan relating to Wolverhampton and building on the evidence and consultation responses made to date. The Plan preparation timetable is set out in a new Wolverhampton Local Development Scheme (2022-2025).

## 2.0 Background

- 2.1 Government requires all Councils to have an up-to-date Local Plan. If Plans are not progressing, or severely delayed, Government has powers to intervene by directly appointing Government officials, at a cost to the Council, to prepare a Plan for an area, taking away responsibility from the local authority. Government has used its intervention powers in South Essex and Wirral where the Councils were unwilling to progress Plans which involved the development of green belt sites to meet their needs.
- 2.2 These requirements were set out in detail in the policy paper "Planning for the Future" [Title \(\[publishing.service.gov.uk\]\(https://www.publishing.service.gov.uk\)\)](https://www.publishing.service.gov.uk) in March 2020. This said: "...

*We will introduce new changes to ensure that land, sites and homes come forward on time and incentivise authorities to deliver more homes. This includes:*

*Setting a deadline for all local authorities to have an up-to-date local plan – the government will require all local planning authorities to have up-to-date local plans by December 2023. The government will prepare to intervene where local authorities fail to meet the deadline in accordance with the existing statutory powers, considering appropriate action on a case by case basis. "*

- 2.3 Plans are also essential to set a realistic housing target for an area so that it can demonstrate it has a five year housing land supply. If a five year housing land supply cannot be demonstrated, Government requires that planning applications and appeal

decisions should be based predominantly on national planning policies with significantly less weight given to locally produced planning policies and priorities. This means it will be much more difficult for the Council to protect sites and features which make important contributions to local character and distinctiveness, and employment premises from being redeveloped - putting local jobs at risk. Green belt would retain protection but to a lesser degree if a five year supply cannot be demonstrated.

- 2.4 Wolverhampton currently has a five year housing land supply but with a very limited margin, and in future years, as urban housing sites are built-out, it is likely that the City will not have a five year housing land supply. 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. Having an up to date Plan is also an important criteria for Councils to bid for money from Government for new infrastructure in a number of funding programmes. Delaying the preparation of the Local Plan will therefore put at risk funding to remediate brownfield sites and critical infrastructure.
- 2.5 The Black Country Core Strategy (BCCS), adopted in 2011, is the key Local Plan document for the City and provides the overarching strategic planning and regeneration document covering the Black Country Authorities (BCA) of Dudley, Sandwell, Walsall and Wolverhampton. The BCCS covers the period to 2026 and contains a commitment to a review in 2016. The review of the BCCS began with production of key evidence in 2016, followed by consultation on an Issues and Options Report in summer 2017.
- 2.6 On 17 October 2018, Cabinet received a report summarising key issues raised during the consultation and agreed to widen the scope of the review to include detailed site allocations and to change the name of the document to the Black Country Plan (BCP). The BCP was intended to identify where new employment and housing development would be located and where investment for new infrastructure such as transport, schools and health facilities would be made and to set out policies to guide development. The BCP would have become the key Local Plan document for Wolverhampton, replacing the out-of-date Black Country Core Strategy (2011) and elements of Wolverhampton specific Area Action Plans.
- 2.7 On 7 July 2021, Cabinet approved consultation on the Draft Black Country Plan (Regulation 18) during summer 2021. The Draft Plan included proposed site allocations for housing and employment development and attracted a large number of consultation responses. On 6 July 2022, Cabinet approved public consultation on Additional Housing Sites in Walsall (Regulation 18) during summer 2022.
- 2.8 Work has been progressing on the preparation of the next stage of the Plan (Regulation 19), taking into account the issues raised in the representations submitted to the 2021 consultation, subsequent evidence studies and the need to conform to planning legislation and Government guidance. This Plan was programmed for consideration by Cabinet in October 2022 with formal public consultation in November / December.

However, on 6 October 2022, the Leader of Dudley Council announced that he would be recommending to his Cabinet that the Council withdraw from the Black Country Plan. The principal reason being that the previously agreed and consistently applied evidence-based approach used to select sites for inclusion in the Plan across the whole of the Black Country could not be supported by Dudley Council. Dudley Council have not suggested an alternative approach towards the site assessments which is capable of withstanding legal challenge and so it is not possible to progress the Black Country Plan on a joint basis.

### **3.0 Proposed Way Forward**

- 3.1 A large amount of work has been undertaken and resources expended over an extended period of time to progress the BCP to an advanced stage. For the reasons set out above, there is an urgent need for Wolverhampton to prepare and adopt a new Local Plan as soon as possible.
- 3.2 Each of the remaining authorities, Walsall, Sandwell and Wolverhampton have agreed that the best route forward following the sudden withdrawal of Dudley is to produce their own plans, whilst at the same time working closely together and meeting the duty to co-operate. Therefore, it is recommended that a new Local Plan is prepared for Wolverhampton which takes forward the parts of the Draft Black Country Plan which relate to Wolverhampton and builds on the existing evidence base and consultation responses made to date.
- 3.3 The above approach will make the most effective use of the work undertaken to date, particularly the “call for sites” and site assessment work, and the extensive and detailed consultation responses received on the Draft Black Country Plan during 2021. This approach has also been endorsed via external legal advice. The details of this approach will be set out in a report to 14 December Cabinet, which will be asked to approve public consultation on an Issue and Preferred Options Report. This will allow adoption of the Wolverhampton Local Plan to take place by early 2025. Given the later adoption date, the Plan period will need to be extended from 2039 to 2040.
- 3.4 The end to joint work on the BCP and the proposed continuation of this work in Wolverhampton through preparation of a Wolverhampton Local Plan requires an immediate update to the Wolverhampton Local Development Scheme (LDS), which covers the period 2022-2025. The proposed new LDS is attached as Appendix 1 to this report. The LDS sets out the following timetable for preparation of the Wolverhampton Local Plan:
- |  |                     |
|--|---------------------|
| ○ Issues and Preferred Options Consultation (Regulation 18): | Dec 2022 – Feb 2023 |
| ○ Publication Consultation (Regulation 19):                  | Aug – Sept 2023     |
| ○ Submission (Regulation 20):                                | End 2023            |
| ○ Examination:   | End 2023 – End 2024 |
| ○ Adoption:  | Early 2025          |

- 3.3 This programme will result in the adoption of the Plan by 2025, with the Regulation 19 (Publication) stage in the Summer of 2023. This is some nine months behind the BCP programme.

#### **4.0 Evaluation of Alternative Options**

- 4.1 The alternative option would be to pause the preparation of the Local Plan, potentially waiting for reforms to the planning system out in in the 2021 Planning White Paper. The programme and scope of these reforms is unclear, and could mean that the City would not have an up-to-date Local Plan in place for a number of years. The clear advice from the relevant Government department within the last few days is that this approach should not be taken and would put the authority at risk of intervention.
- 4.2 As set out above, failure to have a Local Plan that is based on sound evidence could result in the City having insufficient land to meet the need for housing, employment and other land uses that are necessary to support the economic and environmental well-being of the area. It could also result in development taking place in the wrong locations, leading to an inefficient use of resources, traffic congestion and other harm. Having an up-to-date Local Plan in place is also essential to defend the Council's position at planning appeals. Lack of an up-to-date Plan risks intervention from central government and may compromise our ability to make decisions locally.

#### **5.0 Reasons for decisions**

- 5.1 It is important that Wolverhampton is covered by an up-to-date Local Plan and Local Development Scheme, in order to meet statutory requirements and to support regeneration and investment in the City and protect areas of value from development. Cabinet approval is required for each consultation stage of the Local Plan preparation process.

#### **6.0 Financial implications**

- 6.1 The costs of preparing the Black Country Plan (BCP) have been shared on an equal basis between the four Black Country Local Authorities (BCLAs) with Sandwell taking the lead role in procurement. Costs incurred by Wolverhampton during 2021-2022 totalled £77,672, which was met from Planning revenue budgets for 2021-2022 and planning grant.
- 6.2 Following the end of work on the BCP, further work is needed to agree a final financial settlement with the BCLAs. However, the majority of BCP work programmed for 2022-23 has either been completed or almost completed. On this basis an indicative cost breakdown is provided in the table below:

	2022-2023	2023-2024	2024-2025	Total
	£000	£000	£000	£000
Black Country Plan cost	50	0	0	50
Wolverhampton Local Plan cost	50	120	120	290
<b>Total</b>	<b>100</b>	<b>120</b>	<b>120</b>	<b>340</b>

6.3 The anticipated budget for the preparation of a Wolverhampton only Local Plan is some £340,000 for the period 2022-25. This figure is an estimate and will be subject to change having regard to any issues raised during the consultation stages of the Plan preparation programme. This cost is significantly in excess of the contribution towards the completion of the BCP. The additional cost to the Council being at least £100,000. The Council will be carefully looking at what options there may be to recover these wasted costs.

6.4 It is estimated that costs for 2022-2025 can be met through Planning revenue budgets including approved budgets for 2022-2023 and future budgets subject to budgetary approval processes. The recurrent budget for this area is circa £70,000, however, where the forecast suggests costs will be in excess of this budget, planning grant is available to fund the additional costs.

[MH/07102022/L]

## 7.0 Legal implications

7.1 As set out in the body of the report, the Council is required to have an up-to-date Local Plan. The legal implications are detailed in the report and related appendix. Subject to approval of the recommendations, the Wolverhampton Local Plan will form part of the adopted Local Plan for the City.

[JA/07102022/E]

## 8.0 Equalities implications

8.1 Preparation of the Wolverhampton Local Plan will include the carrying out of an integrated Sustainability Appraisal at each formal stage, and at later stages an Equality Impact Assessment. The Plan will seek to ensure that sufficient homes, shops and employment, social and recreational facilities are planned and provided for in that time to meet the needs of the communities in the City. This will include meeting the needs of children and young people by seeking to provide sufficient facilities for them as well as having a positive effect for future generations.

## **9.0 All other implications**

- 9.1 A Sustainability Appraisal (SA) is being carried out throughout the plan preparation process. SA is a process for evaluating the environmental consequences of proposed policies and proposals to ensure sustainability issues are fully integrated and addressed at the earliest appropriate stage. The overall aim of the SA process is to inform and influence the development of the Plan and maximise its sustainability value.
- 9.2 There are currently sufficient staff resources in the Planning team to progress the Wolverhampton Local Plan to timetable. Delivery of the timetable will be dependent upon the retention of key staff and maintenance of staffing resource up to adoption.

## **10.0 Schedule of background papers**

- 10.1 Black Country Core Strategy 2006-26, adopted February 2011
- 10.2 Cabinet – 27 June 2017 'Black Country Core Strategy Review – Issues and Options Report'
- 10.3 Cabinet – 17 October 2018 'Progress on Black Country Core Strategy Review'
- 10.4 Cabinet – 7 July 2021 'Black Country Plan Draft for Consultation'
- 10.5 Wolverhampton Local Development Scheme 2022-25 (Local Development Scheme | City Of Wolverhampton Council)
- 10.6 Cabinet – 6 July 2022 '[Draft Black Country Plan – Additional Housing Sites in Walsall](#)'

## **11.0 Appendices**

- 11.1 Appendix 1: Wolverhampton Local Development Scheme (2022-2025) December 2022