



Walsall Council

Planning Committee

5th March 2015

REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL

Government Consultation: Measures to Underpin the Delivery of Housing on Brownfield Land

1 PURPOSE OF REPORT

- i) To advise Members about the Department for Communities and Local Government (CLG) consultation on a proposal to require local planning authorities to put in place local development orders for brownfield land suitable for housing, and options to deal with authorities that fail to do so.
- ii) To obtain support for a response.

2 RECOMMENDATIONS

- i) That Members note and endorse this report, and agree the responses to the questions posed by CLG as set out in the Appendix below.
- ii) That Members authorise officers to make any minor changes (as necessary) and send the final response on behalf of the Council to the CLG
- iii) That Members authorise the circulation of the response to the borough's MPs, Black Country Local Enterprise Partnership (LEP) the West Midlands Planning and Transportation Sub-Committee, the West Midlands Councils and other appropriate bodies

3. FINANCIAL IMPLICATIONS

None directly from the report. However, the proposals would, if implemented, result in a considerable loss of fees from planning applications whilst at the same time increase the workload of local planning authorities by requiring them to prepare local development orders, for which there would be no fee income. Over the last 3 years, the Council has received nearly £1m in fees from planning applications for residential developments.

The estimated cost of preparing a LDO could be in the region of £50k per order. This was the cost of the Darlaston LDO and is the amount CLG has offered to authorities in return for bids to prepare orders in 2015-16 (only £5m is available for these bids nationally, equivalent to 100 bids). Although a LDO can cover one

site or several sites, the complex nature of an area like Walsall, which has a large number of relatively small potential housing sites, means that many separate LDOs might be needed.

The proposal would also potentially lead to the loss of funding for infrastructure from Section 106 agreements and, in the future, from Community Infrastructure Levy, as well as the loss of contributions to affordable housing (this is one of a number of matters that are unclear from the proposals: CLG have claimed that these contributions could still be secured).

4. POLICY IMPLICATIONS

Aspects of the proposals are unclear, but it would appear that they would, if implemented, undermine existing planning policies in the Development Plan that seek to ensure there is an adequate supply of land for employment and other uses such as schools, community facilities and shops. This could have a serious impact on the ability to retain existing jobs and the ability of companies to move into or expand in the borough.

The proposals claim to be seeking to increase the supply of housing. However, there is no evidence that they will achieve this.

5. LEGAL IMPLICATIONS

None directly from the report. The making of local development orders would be subject to a formal process that is set out in legislation. The process is lengthy and requires the production of a Statement of Reasons. Adoption would be by a resolution of Cabinet.

There is a large amount of brownfield land in Walsall. Although much of this might not meet the proposed criteria for being suitable for a LDO, the designation process is likely to at some point trigger the requirement for Habitats Regulation Assessment, as under the Conservation of Habitats and Species Regulations 2010 LDOs may not be adopted where they are likely to have a significant effect on a European Site and are not connected directly with or necessary for the management of that site.

In addition, a series of LDOs may fall within the Environmental Assessment of Plans and Programmes Regulations 2004 as taken together they could amount to a “programme”, meaning a Strategic Environmental Assessment (SEA) is required as to any significant environmental effects. This has the potential to be a lengthy and expensive process.

The potential conflict with the Development Plan could open the process to legal challenge.

6. EQUAL OPPORTUNITY IMPLICATIONS

The proposals would, if implemented, potentially lead to the loss of employment and job opportunities, and result in residential development in inappropriate locations that might not be accessible or affordable to those in need.

7. ENVIRONMENTAL IMPACT

None directly from the report. See Section 5 (legal Implications) for the potential requirement for SEA.

Under Regulation 29 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, an LDO for development of the types listed in Schedule 2 (which can include residential development) requires screening to determine whether an Environmental Impact Assessment is required, and the LDO may not be adopted unless that environmental information has been taken into consideration.

Regardless of its scale, the conditions attached to any local development order would need to ensure that environmental issues arising from residential development were addressed.

8. WARD(S) AFFECTED

All.

9. CONSULTEES

Legal, economic development and asset management officers.

10. CONTACT OFFICER

Neville Ball, 01922 658025

11. BACKGROUND PAPERS

Building more homes on brownfield land, Consultation proposals, DCLG January 2015

David Elsworthy
Head of Planning and Building Control

Report detail

- 1 On 28th January, the Government launched a consultation seeking to implement the idea (announced by the Chancellor in June 2014) that by 2020 the vast majority (90%) of “brownfield” land suitable for housing, and which does not already benefit from planning permission, should be the subject of Local Development Orders (LDOs).
- 2 A development order effectively grants planning permission for particular types of development without the need for the developer to make an application to the local planning authority. Traditionally they have been used to allow minor works that have little impact on the surroundings. The most common are small domestic extensions: many of these are “permitted development” under the General Permitted Development Order (GPDO). Some types of “permitted development” allowed under development orders require prior approval for certain details to be obtained from the local planning authority: an example are telecommunications masts, where the developer is required to seek approval of the siting and appearance.
- 3 The GPDO was declared by the Secretary of State and applies to the entire country (certain types of permitted development are more restrictive or do not apply in particular locations, for example conservation areas). Legislation allowing a simplified planning regime in particular areas (notably enterprise zones) has existed for decades, but since 2004 legislation has allowed individual local authorities to make Local Development Orders for the whole or any part of their area. In Walsall, a LDO has been made for the Darlaston area of the Black Country Enterprise Zone which grants permission for certain types of industrial development.
- 4 The current consultation proposes that where local authorities do not have 90% of suitable brownfield sites covered by LDOs by 2020, or 50% by 2017, they should be placed under the “special measures” regime for planning. This would mean that applicants could choose to submit planning applications directly to the Planning Inspectorate: although they would be responsible for administration, the local authorities affected would not receive a fee. The consequences in terms of local accountability, reputation and financing could be severe.
- 5 A second option proposed would be to amend the National Planning Policy Framework. The policy change would mean that local planning authorities that had failed to make sufficient progress against the brownfield objective would be unable to claim the existence of an up to date five year housing land supply when considering applications for brownfield development, and therefore the presumption in favour of sustainable development would apply. This means that the authority (and planning inspectors in the case of appeals) would be expected to approve housing developments even when proposals were contrary to the development plan. The effect could be the loss of better quality employment land and housing might even be allowed in the Green Belt.
- 6 “Brownfield” (previously developed) land is defined in Annex 2 of the National Planning Policy Framework as:
Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes:

- *land that is or has been occupied by agricultural or forestry buildings;*
- *land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures;*
- *land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and*
- *land that was previously-developed, but where the remains of the permanent structure have blended into the landscape in the process of time.*

- 7 The Government recognises that this is a very broad definition and (apart from exclusions) covers all land in England where there are or have been buildings or other development. Much of this land is already in productive use and would not be suitable for new housing. The Government is therefore proposing that local planning authorities should identify land which follows the definition in the National Planning Policy Framework and also meets the following criteria:

Deliverable

- The site must be available for development now or in the near future. This will be a site not in current use, or a site in use (though not for housing) or under-utilised where the local authority has evidence that the owner would be willing to make the land or buildings available for new housing, provided planning permission can be obtained.

Free of constraint

- Local planning authorities should not identify as suitable for housing any land which is subject to severe physical, environmental or policy constraints, unless the constraints can realistically be mitigated while retaining the viability of redevelopment. Contaminated land should also be excluded if there is clear evidence that the cost of remediation would be out of proportion to its potential value, making re-development unviable.
- The Government attaches great importance to the Green Belt and the National Planning Policy Framework makes clear that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence. Inappropriate development on brownfield land in the Green Belt should not be approved except in very special circumstances.

Capable of development

- The site must be in a condition and location that would make it a genuine option for developers: that is, it must be clear to the local planning authority that there would be interest from developers in purchasing the site and building housing there in the near future.

Capable of supporting five or more dwellings

Observations

1. The Council strongly supports the principle of prioritising the regeneration of brownfield sites ahead of the development of greenfield and green belt sites. We hold a database of several hundred previously developed sites that have potential to be developed for housing, and such sites constitute the vast majority of our housing land supply. However, it is important to balance the use of such

sites for housing with the need to ensure an adequate supply of land is available for other uses, in particular land for industry to continue to operate and expand, to be able to attract new investment, and to provide for community facilities and other uses.

2. We do not consider the use of LDOs is an appropriate mechanism for bring housing sites forward for development. The preparation process for LDOs is complex. The legislation requires consultation with a wide range of bodies, similar to that for a local plan document or a planning application. These include landowners, statutory undertakers, voluntary bodies, community groups and neighbouring occupiers. However, unlike a planning application, there would be no fee income available to the planning authority, so the cost of the order(s) would need to be paid out of the authority's own resources. The Government has announced a £5 million fund to support up to 100 local development orders nationally, but this is unlikely to be anything like sufficient to compensate for the loss of planning application fee income. Walsall has received nearly £1m in fees for planning applications for new residential development over the last 3 years.
3. Although comments made by existing residents and others are considered when preparing a LDO, once an LDO has been made there is no opportunity to consult when a proposal actually comes forward. This means that development can take place without neighbours being made aware.
4. It is estimated that the cost of preparing the Darlaston LDO was between £30,000 and £50,000. Part of this cost was because the process was new so it was necessary to employ consultants: costs could reduce as local authorities became more experienced in preparing them. However, an LDO for housing development could be more challenging, given that it is likely to cover a larger area and residential development is more sensitive to issues such as ground contamination, flooding and noise which would need to be addressed through any conditions. The Darlaston LDO only grants planning permission for industrial development. A cost of £50k is the amount that CLG have made available per bid in the current funding proposal.
5. A LDO for development of the types listed in Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 will require the carrying out of screening under the Environment Impact Assessment Regulations, and potentially the preparation of an Environmental Impact Assessment, before the LDO is made. A Strategic Environmental Assessment may potentially be required where a series of LDOs with a cumulative effect were to be treated as a programme with significant environment effects.
6. At present, an outline planning permission approves the principle of residential development on a site, leaving details such as design and layout to be submitted as reserved matters. A LDO could have the same effect as an outline planning permission, but conditions of the order would need to be carefully worded to ensure that these details are still provided.
7. Because an LDO has the same effect as granting planning permission, great care is needed to ensure the order does not authorise development that would have an adverse impact on its surroundings. For this reason, it is likely that separate orders would be needed for each site, although sites could be grouped together where they form a cluster in a particular area like the existing Darlaston LDO.

8. The criteria proposed in the consultation raise considerable concerns. The proposal to include sites still in use for purposes other than housing in the definition of “deliverable” land could result in owners forcing existing occupiers, including successful businesses, to leave or cease trading in order to increase the value of the land. We already have evidence of owners seeking to do this, as well as owners of sites that are allocated or have planning permission for industry deterring enquiries from industrialists seeking land or premises because the owner would prefer to pursue housing development instead.
9. The proposal does nothing to ensure that sites will actually be delivered. Physical constraints caused by the need to address contamination and ground instability resulting from the industrial legacy of the area, combined with low land values, mean that many potential housing sites in the Black Country are not viable even where there is no other preferred use. Low income levels of those in need of housing mean that there is no scope to increase sale or rental prices to compensate.
10. By increasing the “hope value” of land, the proposals could cause a shortage of land for uses other than housing, as landowners hold onto sites and keep them vacant in preference to putting them to other uses.
11. The complex nature of the Black Country means that it is often necessary to address a wide range of issues when dealing with development proposals. These can include, for example, flood risk, ground contamination and stability, and the impact on the highway network. It is only possible to address these issues on a site by site basis, and it is often necessary to carry out detailed site investigations involving both desk top studies and physical investigations on the site. Experience with preparing the LDO for the Black Country Enterprise Zone, which grants planning permission for industrial uses and development in the Darlaston Area, has shown that it is very difficult to anticipate the range of issues that might arise in respect of specific sites when preparing an order that covers a wide area.
12. It might therefore be necessary to prepare individual LDOs for specific sites: this could potentially involve hundreds of orders. As an indication of the potential workload implications, preparation of the Darlaston LDO took around 6 months of largely dedicated officer time.
13. The premise behind the proposals appears to be that the Government sees the need for planning permission as the main barrier to housing development taking place. However, the cost of submitting a planning application represents only a small part of the total cost of development, especially when compared with the cost of remediating many brownfield sites. It should be noted that in the existing Darlaston LDO area, some developers have chosen to continue to submit a planning application even though their proposed works would have been permitted under the LDO, as they considered a planning permission provided more certainty that the works would be lawful. Whilst the aim of the LDO is to simplify the process and to provide “certainty” to developers and investors, there is a limit to what can be achieved given the specific requirements that need to be addressed. Therefore an LDO can still require the submission of significant supporting material.

14. It is unclear how sites will be assessed as “free of constraint”. Authorities in an area such as the Black Country could argue that nearly every brownfield site has constraints that affect its viability (in which case there would be no sites that would be eligible for an LDO). Viability is also at least to some extent subjective and there is no nationally agreed methodology for assessing it. Given the serious financial and other consequences of being expected to grant planning permission via LDOs in place of planning applications, including loss of fees, and the threat of being placed in special measures and of being found in breach of the requirement to maintain a 5-year housing land supply for failing to put LDOs in place, which could result in housing being allowed on undesirable sites, it is important that there is a clear definition of the terminology.
15. If there is no clear definition of “free from constraint”, there is a likelihood that an inability to prepare LDOs for sites where there could be significant environmental impacts would be likely to increase the pressure to find other sites.
16. In order to demonstrate that 90% of suitable brownfield sites have LDOs or planning permissions in place, it would be necessary to maintain a database of all such sites, including the other 10%. This would add to the administrative burden on local authorities.

Appendix

Proposed Response from Walsall Council to CLG

This response should be read in conjunction with the Observations section of the main report above.

The consultation asks a total of 12 questions.

Question 1: Do you agree with our proposed definition of brownfield land suitable for new housing and the criteria that are applied to define land suitable for new housing?

1.1 No. The proposal to include sites still in use for purposes other than housing in the definition of “deliverable” land could result in owners forcing existing occupiers, including successful businesses, to leave or cease trading in order to increase the value of the land. We already have evidence of owners seeking to do this, as well as owners of sites that are allocated or have planning permission for industry deterring enquiries from industrialists seeking land or premises because the owner would prefer to pursue housing development instead. Industry is of vital importance to the economy of areas such as the Black Country and the effect on jobs and growth could be serious.

1.2 There is a potential conflict between the proposal and existing LDOs that seek to promote employment uses. In Walsall, we have adopted an LDO that grants planning permission for B2/ B8 uses in part of the Black Country Enterprise Zone. However, some of the sites involved could also be physically suitable for housing development. Given the higher land value associated with residential development compared with employment uses (even taking account of the financial incentives available in the EZ), there is the potential that landowners may wish to pursue housing on their sites.

1.3 Apart from the Green Belt, it is unclear what is meant by “severe policy constraints”.

1.4 Brownfield sites are often affected by a wide range of constraints and it is often not possible to fully identify these until detailed investigations have been carried out. These can include ground stability as a result of former mining activity, contamination from previous industrial uses, noise and air quality, and flood risk. In some cases these constraints might make redevelopment unviable (and so they would be excluded by the proposed criteria). However, viability is at least to some extent subjective and there is no nationally agreed methodology for assessing it. It can vary over time, so a site that is viable at the time a LDO is made may not be so a couple of years later.

1.5 CLG have stated in discussion that it will be for individual local authorities to decide which sites to include in an LDO. However, the potential serious implications for owners and occupiers of individual sites that would arise from any decision to make a LDO, for the local authority itself if its performance is to be judged, and for jobs and the economic prosperity of the wider community, means that it is vital there are clear guidelines about the criteria to be used for selecting sites.

1.6 The consultation fails to explain how requirements of the development plan, the National Planning Policy Framework and Planning Policy Guidance, and other legislation, including European legislation, might be addressed. These include provision

for employment needs, affordable housing and other contributions that would normally be made via Section 106 obligations, Environmental Impact Assessment and assessment under the Habitats Regulations.

1.7 A LDO for a larger site or a series of sites is likely to require the carrying out of screening under the Environment Impact Assessment Regulations, and potentially the preparation of an actual Environmental Assessment, before the LDO was made.

1.8 Preparation of a LDO or series of LDOs covering a large number of sites could amount to a “programme” and be subject to Strategic Environmental Assessment. This would require the assessment of “reasonable alternatives” and other assessments that should more properly take place within the development plan system.

1.9 Given the serious financial and other consequences of being required to grant planning permission via LDOs in place of planning applications, including loss of fees, the threat of being placed in special measures and of being found in breach of the requirement to maintain a 5-year housing land supply, which could result in housing being allowed on undesirable sites, it is important that there is a clear definition of the terminology.

1.10 The proposal could in fact have a perverse effect of causing less brownfield land to be brought forward for development and more greenfield sites, including those in the Green Belt. Local authorities will be less willing to declare brownfield sites as suitable for housing, if this would result in them being forced to prepare a LDO to avoid being penalised. Landowners who are seeking to gain planning permission for residential development on greenfield sites will also argue that brownfield sites are not capable of development, and so the authority should release greenfield sites in order to maintain a 5 year supply of housing sites.

1.11 The preparation of a LDO requires that potential constraints are identified in advance. Housing is a sensitive land use and it is important that all issues that might affect future occupiers are identified and addressed. We consider these issues are better being dealt with through the development plan and/or through a planning application rather than through a LDO. Submission of a planning application allows the local authority to work with the developer to address issues and minimise the number of matters that require the imposition of conditions. The process for preparing LDOs does not allow this co-operative approach: as a result, it is likely to result in additional conditions and limitations being imposed which add to complexity and the workload of both the local authority and the developer. Consideration of proposals through the development plan and planning application process allows the need for community facilities and other requirements to serve residential development to be properly assessed.

1.12 The proposal does nothing to ensure that sites will actually be delivered. Physical constraints caused by the need to address contamination and ground instability resulting from the industrial legacy of the area, combined with low land values, mean that many potential housing sites in the Black Country are not viable even where there is no other preferred use. Low income levels of those in need of housing mean that there is little scope to increase sale or rental prices to compensate. Indeed, the loss of jobs that could result from the proposals would reduce the ability of existing residents to afford housing costs.

Question 2: Do you agree that local planning authorities should be transparent and publish the small subset of data at source, and update it at least once a year, to a common standard and specification?

Question 3: Do you have views on how this common standard and specification should be developed?

2.1 We maintain and publish a full database of all potential housing sites as part of the annual update of our SHLAA. This includes sites that already have planning permission as well as sites that are no longer required for other uses. However, information on constraints and viability is derived from a wide range of sources. These include sources outside the local authority (such as information on flood risk from the Environment Agency) and information that may be sensitive or confidential (such as details of potentially polluted land).

2.2 Some of the information suggested in the consultation may not be held by the local authority, or may be difficult to obtain. This includes details of private sector ownership. Brownfield sites can often have complex ownerships: indeed, fragmented ownership can be a reason why particular sites do not come forward for development.

2.3 The general desk top assessment of viability that is carried out for the purposes of preparing a SHLAA or development plan may not be as thorough as that needed to confirm the viability of specific development proposals to be set out in an LDO that would grant planning permission for a specific development. Given that an LDO would set out at least the general form of development to take place on a site, it would require a detailed understanding of site conditions, for example the positions of underground services, former mineshafts and chemical contamination.

2.4 If the data is to be used for statistical purposes, to calculate which sites should be included within the “90%” figure, or to allow challenge from parties who may wish to argue that particular sites should be added or removed, it will be necessary to include all potential sites, including those which the authority considers are subject to too many constraints to be suitable for housing. The data is therefore likely to be lengthy and complex, so it is not correct to suggest that a small subset would be adequate.

2.5 It should be noted that there is already a national dataset of potential brownfield development land in the form of the National Land Use Database (NLUD) collected from local authorities by the Homes and Communities Agency (HCA). It is unclear what use the HCA has made of this data, which was formerly collected annually, but it required local authorities to identify the potential use of sites.

Question 4: Do you agree that local planning authorities should review their baseline and progress regularly, at least annually, to ensure that information about permissions on suitable brownfield land is current, reflecting changes in the availability of suitable housing sites?

4.1 We already do this, subject to the limitations about constraints as explained in our response to questions 2 and 3 above.

4.2 It is noted that sites that already have planning permission would not need to be the subject of LDOs. However, it is unclear what the situation is intended to be in respect of sites where the permission has expired. LDOs are also normally only put in place for a limited period (typically 3 years). It should be clarified whether sites that are the subject of an expired LDO will count towards the target of 90% of sites to be the subject of an LDO, or whether it will be necessary to renew the LDO when it expires: if

the latter is intended to be the case, it will add further to the unnecessary burden on local planning authorities.

Question 5: Do you think that the designation of under-performing planning authorities in the way suggested would provide an effective incentive to bringing forward planning permissions on brownfield land?

5.1 No. The need is for sites that are suitable for housing to be delivered. The granting of planning permission, whether through the submission of a planning application or through a LDO, will not incentivise landowners to develop sites. At best, it will only increase the amount of land with planning permission for housing that is lying vacant.

5.2 A much more effective way of bringing forward brownfield land is through the development plan system. This provides long term certainty for developers and investors.

Question 6: Do you agree that:

- a) Authorities should be designated from 2020 if they have not met the 90% objective?**
- b) Performance against the 90% objective should be calculated on the extent to which the brownfield land suitable for housing identified a year earlier is covered by local development orders?**

6.1 The proposal to introduce penalties from 2020 appears to be an acknowledgement that the Government recognises that preparation of a LDO is a lengthy process, and a lead in time is needed when new sites become available. However, we do not agree with the use of penalties, for the reasons stated above.

Question 7: Do you agree that:

- a) Authorities should be assessed against an intermediate objective in 2017?**
- b) Having local development orders in place on 50% of brownfield land identified as suitable for housing (and which does not already benefit from planning permission) in the preceding year is an appropriate intermediate objective?**

7.1 We do not agree that local development orders would be an effective measure to bring housing sites forward, and we do not agree with penalties for local authorities that fail to produce them. Given the increasing general financial pressures on local authorities, spending public money on proposals that would be ineffective could leave authorities open to legal challenge.

Question 8: Do you agree that authorities should be designated from 2017 if they have failed to make sufficient progress against the intermediate objective?

8.1 See response to question 7.

Question 9: Do you agree:

- a) With our proposed approach to identifying and confirming designations, including the consideration of whether exceptional circumstances apply?**
- b) With our suggested approach to de-designating authorities from 2020?**
- c) That the provisions for handling applications made to the Secretary of State should be the same as where an authority is designated under the existing performance measures?**

9.1 Although we do not agree with the proposal to designate “poorly performing” authorities in principle, the use of a similar process to that currently used for poor performance in determining planning applications would appear to be appropriate if such a regime was introduced. However, the process for identifying authorities would be much less straightforward, given that it would be based on more complex data. The current regime is based on a factual measure of the time taken to determine planning applications: the proposed measure would require agreement on which sites in the authority’s area meet the criteria of being deliverable, free of constraint and capable of development. It is not clear therefore that such a regime would be justified in practical and legal terms.

9.2 If the criteria are not clearly specified, there is a considerable potential for legal challenges to be made, particularly by local authorities or by applicants.

Question 10: Do you:

a) Think the policy-based approach would provide an effective incentive for authorities to put local development orders in place on suitable brownfield land?
b) Agree with the proposed thresholds and dates at which this measure would take effect?

10.1 Applicants for planning permission can already challenge local authority claims to have a 5 year housing land supply by arguing that identified sites are not deliverable or for any other reason. Any “policy-based” approach should be more sophisticated, rather than a crude single measure. This measure would at best only result in more sites with planning permission for housing development, and a loss of land needed for other purposes such as employment.

Question 11: Do you agree that the measures proposed for failing to publish information on progress are proportionate and effective? If not, what alternative would you propose and why?

11.1 We would welcome a requirement for local authorities to publish data on the availability of brownfield land that is suitable for housing. However, the complexity of identifying potential constraints, as explained above, means that data may not be consistent between authorities, with some authorities identifying sites as deliverable that other authorities would not. As noted in response to questions 2 and 3 above, it is not clear what use is made of the existing data provided by local authorities for NLUD.

Question 12: Do you have any other suggestions for measures that could help to deliver local development orders on brownfield land suitable for new housing?

12.1 We consider that LDOs would be a wasteful and bureaucratic way of bringing forward brownfield land for new housing, particularly for local authorities in areas such as the Black Country that have large amounts of potentially suitable land where development is held up by genuine issues that affect viability. The proposals would require a lot of time and resources but for no good purpose. The cost would be better spent carrying out positive forward planning and working with developers to address the physical constraints such as ground stability and contamination that prevent otherwise suitable sites from being developed. Development planning is the best way forward.

12.2. The key objective should be the delivery of housing itself. Granting planning permission, whether as the result of a planning application or a local development order, is not the most significant obstacle to this delivery. Walsall is making significant progress on delivery of housing, including using New Homes Bonus to improve the viability of sites, working with affordable housing providers and taking a realistic view of developer contributions.

12.3 Although not relevant to LDOs for housing, in Darlaston the Council is exploring the possibility of using retained business rates generated in the Enterprise Zone to address viability gaps caused by poor ground conditions enabling sites to come forward. Ground conditions and viability are the main barrier to development.