

Cabinet – 19 January 2005

Walsall Unitary Development Plan Review Response to Consultation on Proposed Modifications

Portfolio: Councillor Marco Longhi – Environment
Councillor Adrian Andrew – Regeneration

Service Area: Planning & Regeneration

Wards: All

Forward Plan: Yes

Summary of report

This report informs Cabinet about the response to the Proposed Modifications to the Plan which were on deposit for public consultation between November – December 2004 and makes recommendations for an appropriate response to the representations received and the actions now necessary to progress the UDP Review to adoption by the Council.

Recommendations

That Cabinet:-

- (1) Agree the recommended response to the representations received on the Walsall Unitary Development Plan Review Proposed Modifications as set out in section 2 of this report (and in the Schedule of Representations and Responses placed on the Council's website).
- (2) Authorise officers to publish a Notice of Intention to adopt the Walsall Unitary Development Plan Review.
- (3) Recommend to full Council at its meeting on 7th March 2005 that the Walsall Unitary Development Plan Review be formally adopted by the Council.

Resource and legal considerations

Provision is made in the Council's revenue budget for the costs of taking forward the UDP Review to adoption, as advised in the report to Cabinet in October 2004.

There is a statutory requirement for the Council to maintain an up-to-date UDP and its preparation is subject to statutory procedures. Decisions on planning applications must accord with the UDP unless other material considerations indicate otherwise.

Citizen impact

The UDP Review will impact upon citizens throughout the Borough through its influence on planning decisions.

Community safety

The UDP Review contains draft policies that deal with the issue of community safety. All objections relating to these draft policies were resolved at an earlier stage. This report does not therefore refer to those policies. There are no implications for community safety arising from this report.

Environmental impact

Sustainable development is a key aim of the UDP Review and a Sustainability Appraisal was prepared at an early stage of the process.

Performance and risk management issues

It is important that Council proceeds to the adoption of the UDP Review, by March 2005 otherwise it would fail in its requirement to maintain an up-to-date development plan as measured by BVPI 200.

Equality implications

The UDP Review process has been as open and inclusive as possible, to ensure that the needs and aspirations of all sections of the community are taken into account.

Consultation

The preparation of the UDP Review involved extensive public consultation at earlier stages of the process. Any unresolved objections were considered at the Public Local Inquiry held in 2003 and the Inspector, Mr. Alan Foster, made recommendations for how the Council should respond to these, as reported to Cabinet in October 2004. This current report has been prepared in consultation as necessary with Council officers who were involved with presenting the Council's case to the Public Local Inquiry

Vision 2008

The UDP Review, as the Council's Draft Development Plan, is one of the prime mechanisms to turn the Vision's priorities into reality. As such it will be relevant to the whole Vision. However, the Draft UDP Review is essentially a land use plan. It therefore will have more impact on some Vision priorities than others. The particular importance of the Draft UDP is in connection with the following priorities:

- Ensure a clean and green borough - Environmental improvement is one of the underlying aims of all of the Plan's Policies.
- Make it easier for people to get around - This essentially has two strands. First, locating the right development in the right place, it will be easier for all sections of the community to reach. Secondly, policies also provide for selective improvements to the road network.
- Ensure all people are safe and secure - The Draft UDP's main contribution will be in two respects: first, the promotion of mixed use developments that increase the range of activities in an area to ensure the presence of people throughout the day; and second, in the design of individual developments.
- Make our schools great - The main land use contribution that could be made here is to provide for contributions from developers towards the cost of new or improved education facilities.
- Make Walsall a healthy and caring place - In relation to health, the Plan requires contributions from developers where necessary. Contributions are made through a variety of other means including improving walking and cycling facilities, locating development in accessible locations and setting out clear access standards.
- Encourage everyone to feel proud of Walsall - through the draft UDP policy aims to improve the quality of life for borough citizens.
- Strengthen the local economy. One of the fundamental aims of the Draft UDP is to stimulate regeneration for example providing quality land and sites for investment.
- Listen to what local people want - The refinement of the draft UDP was done following an extensive consultation and negotiation process.

Background papers

The representations on the UDP Review Proposed Modifications are available for public inspection.

Schedule of recommended Council responses: Summary of representations and Council responses December 2004 - www.walsall.gov.uk/environment/udp/documents.asp

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Signed



Executive Director:
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Date: 7/1/05

Signed



Portfolio Holders:
Councillor Longhi/Councillor Andrew

Date: 7/1/05

1. The UDP Review Process

- 1.1 The Council is now at a very advanced stage in the review of its Unitary Development Plan (UDP). The UDP is the statutory development plan for the Borough, with which all planning decisions must normally accord. The current UDP was adopted by the Council in 1995. The UDP Review, with an end date of 2011, will when adopted, provide the Council with more up-to-date and relevant planning policies and, coinciding with its adoption, work will also be beginning on looking forward to the preparation of the future 'Local Development Framework' which will in turn eventually replace the UDP Review.
- 1.2 Cabinet will recall that on 20 October 2004 it considered a report advising on the recommendations of the Inspector, Mr. Alan Foster, who conducted the Public Local Inquiry (PLI) into objections to the UDP Review in 2003. Cabinet agreed the Council's response to each of the Inspector's recommendations and authorised officers, in consultation with the portfolio holders, to prepare and publish for consultation the Proposed Modifications to the Plan now necessary to give effect to these decisions and deal with some other matters of factual updating.
- 1.3 The Proposed Modifications were on deposit for public consultation for six weeks from 5th November to 17th December 2004. A number of representations were received and the objections in particular are summarised in section 2 of this report, together with recommendations for the Council's response to these. A schedule setting out all of the representations that were properly-made (see paragraph 2.3) and recommended responses on behalf of the Council, 'Summary of Representations and Council Responses December 2004', has been placed on the Council's website:
www.walsall.gov.uk/environment/udp/documents.asp
- 1.4 Walsall should now move forward as speedily as possible to adoption of the UDP Review, as outlined in section 3 of this report. Moving forward quickly to adopt the UDP Review by the target date of March 2005 will ensure that more up-to-date development plan policies are in place to guide the development control process, enable us to achieve our Best Value target for BVPI 200 for 2004/5, and allow attention to then shift towards the preparation of the replacement Local Development Framework (LDF).

2. Representations on the Proposed Modifications

- 2.1 As noted above, the Council's response to the Inspector's Report and the Proposed Modifications to the Plan were subject to public consultation from 5th November to 17th December 2004. Copies of the relevant documents were on deposit at the Civic Centre and could also be inspected at libraries in the Borough. Printed copies were available for purchase and the documents could also be seen on the Council's website. Public notices were published; a press release issued; and all people and organisations on the UDP mailing list were notified directly.

- 2.2 The representations which people could make during this consultation period had to be strictly related either to a Proposed Modification or to the Council's decision not to accept any recommendation made by the Inspector (Members will recall that there were a small number of the Inspector's recommendations which the Council did not accept). People could not at this stage of the process object to any other aspect of the Plan.
- 2.3 A total of 23 properly made representations were received by the closing date of 17th December. These comprised 11 objections and 12 supporting representations. These are summarised below under the relevant chapter headings of the Plan. We also received a small number of other representations that could not be registered as properly made objections because they do not relate to a Proposed Modification or the absence of a modification recommended by the Inspector (see paragraph 2.2 above).

Chapter 3: Environment & Amenities

- 2.4 There is an objection to MOD 3.02 on behalf of the owner of a site at Castle Road, Walsall Wood that is now proposed by the Council to be included in the Green Belt - the objector argues that the site should not be included in the Green Belt. In this instance the Council is following the recommendation of the Inspector who, having considered all the relevant issues, considered that the site should be included in the Green Belt. The recommended Council response is therefore for no further change to the Plan in response to this objection.
- 2.5 An objection from English Heritage to MOD 3.10, relating to Policy ENV9 for Great Barr Hall & Estate/ St. Margaret's Hospital, disagrees with the Council's decision not to accept one of the Inspector's recommendations in full. Whereas the Inspector recommended the preparation of a development brief for the whole site the Council took the view that this was not necessary or appropriate given that development proposals for part of the site have recently been approved on appeal and proposals for other parts of the site are currently emerging through the development control process. The Council has, however, recognised, through a Proposed Modification, the need for a phasing and implementation plan prepared by the Council, developers and all interested parties to co-ordinate matters. English Heritage takes the view that there is still a need for a full development brief. The recommended Council response is for no further change to the Plan in response to this objection. It is considered that, in the present circumstances relating to this site, the approach outlined in the existing Proposed Modification is adequate. Were there considered to be the need for the preparation of a development brief in the future this could be set out in the Council's Local Development Scheme (LDS).
- 2.6 There is an objection on behalf of the Registered Social Landlord (RSL) Planning Consortium to MOD 3.23 relating to Policy ENV36 for public art. The objection essentially maintains their previous objection that RSLs should be exempt from providing public art. The recommended Council response is for no further change – in this instance we are following the Inspector's recommendation and he considered it inappropriate to give RSLs exemption from the public art policy.

- 2.7 Another objection from Friends of the Earth to MOD 3.25, relating to renewable energy and energy efficiency, seeks reference in the background text to the Regional Energy Strategy. There is in fact already a reference to this strategy in the revisions proposed in MOD 3.25 and it is therefore recommended that no further change is necessary.
- 2.8 There are also nine supporting representations for other Proposed Modifications relating to matters in this chapter.

Chapter 4: Jobs & Prosperity

- 2.9 There are two similar objections from CPRE and Friends of the Earth to MOD 4.01 which revises paragraph 4.15 of the background text relating to employment land supply. The objections are concerned that a reference to the M6 Toll could be seen as encouraging the development of greenfield sites in the road corridor. The recommended Council response is for no further change to the wording, which has been recommended by the Inspector after considering all the relevant issues. The wording merely recognises that the M6 Toll (which is outside the Borough) is one of several factors likely to stimulate the demand for land and property to which it improves access. The other policies of the plan define those areas where such demand will or will not be accommodated. The Inspector has not recommended that any greenfield sites be allocated for employment development.
- 2.10 An objection from St. Modwen Developments Ltd. to MOD 4.06 seeks the inclusion of a reference in the UDP text to the Council undertaking a review of employment land as a matter of urgency. The Inspector recommended that this work was necessary and the Council has accepted his recommendation – it will be undertaken as part of work towards the future Local Development Framework as envisaged by the Inspector. The Inspector did not, however, specifically recommend that any reference to this be included in the UDP and the Council has not considered that to be necessary. It is therefore recommended that no further change be proposed in response to this objection.
- 2.11 There is one supporting representation for another Proposed Modification in this chapter.

Chapter 6: Housing

- 2.12 An objection has been received from Friends of the Earth to MOD 6.09 which includes, as recommended by the Inspector, reinstatement of a housing proposal (H2.20) off Gorway Road (on land surplus to the needs of the university) with the caveat that development 'shall not commence until the car parking spaces currently on the site have been properly relocated to serve the university complex'. The objection seeks to vary the wording to say the parking should be relocated within the university's grounds. The recommended Council response is to make no further change as the wording used is in line with the Inspector's recommendation and 'proper relocation' of the parking need not necessarily be within the university site.
- 2.13 There are also two supporting representations for other Proposed Modifications relating to matters in this chapter

Chapter 7: Transport

- 2.14 The National Farmers Union has objected to MOD 7.13 which, as recommended by the Inspector, expands the background text on walking and cycling including a reference to the needs of wheelchair users. The NFU consider that this reference should be limited to 'urban areas' as wheelchair access cannot be provided across farm fields. The recommended Council response is to make no further change as there could be places outside urban areas to which it would be reasonable to provide wheelchair access. In practice the Disability Discrimination Act provides the context for what is reasonable; the UDP could not require anything that would be unreasonable. There is therefore no need to make an exception in this policy for farms and other rural places.
- 2.15 The Government Office for the West Midlands (GOWM) has objected to MOD 7.15, relating to the proposed residential parking standards (Policy T13 B) on the grounds that they are too generous and will lead to provision above the average threshold of 1.5 parking spaces per dwelling referred to in PPG3. The Council has in fact already submitted evidence to the Inquiry (WMBC 68) that the Council's standards were achieving an average of 1.4 spaces per dwelling across the Borough. There is therefore no need to change these standards.
- 2.16 There is another objection from Friends of the Earth to the wording of MOD 7.16, which relates to the background text to the residential parking standards. The change sought by the objector would involve the deletion of some explanatory text. The recommended Council response is for no further change as it is considered important to retain this wording which essentially explains the relevance of residential parking standards to maintaining safety and amenity in residential areas.

Conclusion

- 2.17 The Council must now determine its response to the representations received at the Proposed Modifications stage. It should be noted that were the Council to agree to any objector's request that the wording of the Plan be materially changed this would necessitate further public consultation on the change(s) through another round of Proposed Modifications. This would have the effect of significantly delaying the adoption of the Plan, beyond the March 2005 target date.
- 2.18 The recommended response to each of the representations has been set out in the Schedule of Representations and Council Responses (December 2004) that has been placed on the Council's website and it will have been seen from paragraphs 2.4 – 2.16 above that it is not considered that any of the representations raise issues which would justify the Council putting forward any further Proposed Modifications to the Plan at this stage. **It is therefore recommended that Cabinet agree the response to the recommendations as described in this section of the report (and detailed in the schedule on the Council's website).**

3. Adoption of the UDP Review

Notice of Intention to Adopt

- 3.1 On the basis that the Council will not now be proposing any further modifications to the Plan, we can now move forward towards adoption. The first step will be to publish a 'notice of intention to adopt after 28 days'. This will be published as soon as practicable following the Cabinet meeting (i.e. in late January 2005). It is recommended that Cabinet authorise officers to take this action.

Adoption

- 3.2 After the 28 days specified in the above mentioned notice has expired the UDP Review can be adopted by the Council. The target for this is the full Council meeting on 7th March 2005. It is recommended that Cabinet now recommend to full Council that the UDP Review be adopted by the Council at that meeting. It is vital that the Plan be adopted at that meeting if the Council is to meet its target for adoption before the end of this financial year.

Period for Legal Challenge

- 3.3 Following the Council's resolution to adopt there is then a period of 6 weeks during which people have the opportunity to challenge the adoption of the Plan in the High Court on a point of law. This is a relatively rare occurrence but not unknown in the West Midlands. Once we are beyond this period action can be taken produce the final printed copies of the Plan document and Proposals Map.

4. Risk Management Issues

- 4.1 The two principal areas of risk relate to:-

- 1) Factors that might delay the adoption of the Plan beyond the target date of March 2005;
- 2) Any possible legal challenge to the Plan following adoption.

Delays to Adoption

- 4.2 The Council has set a target for adoption of the UDP Review by March 2005. The achievement of this target is, amongst other things, important for the Council's performance against BVPI 200. As set out in section 3 of this report, it should be feasible to meet the target, although the timetable is tight. It is obviously vital that full Council does adopt the Plan on 7th March as recommended.

- 4.3 As noted elsewhere in this report, were the Council to decide now to consult on a further round of Proposed Modifications this would inevitable significantly delay the adoption of the Plan beyond March 2005. It is, however, recommended that there is no justification for the Council putting forward any further modifications.

Legal Challenge

- 4.4 The risk of legal challenge will be minimised by ensuring that the correct statutory procedures are followed throughout the process to adoption. Legal Services will be asked to verify that all the necessary requirements are fulfilled.