

Cabinet – 9 November 2011

Plans to Support Key Infrastructure in Walsall Borough – Review of Supplementary Planning Documents (SPDs)

Portfolio: Councillor Adrian Andrew, Deputy Leader, Regeneration

Service: Regeneration

Wards: All

Key decision: Yes

Forward plan: Yes

1. Summary of report

- 1.1 This report recommends a strategy and programme for review of the adopted Supplementary Planning Documents (SPDs) in the Walsall Local Development Framework (LDF), pending the introduction of the Community Infrastructure Levy (CIL), which the Council is not expected to have in place until the end of 2013. The SPDs support “saved” policies in the Walsall Unitary Development Plan (UDP), and in some cases they provide guidance on the negotiation of planning obligations. As the legal and policy framework has changed since the SPDs were produced, it is now time to review them to check that they remain up-to-date and relevant. Revision of the SPDs is a Key Decision because it involves changes to LDF policy which affect the whole Borough and are matters requiring a decision by the Executive.
- 1.2 The recommended approach towards SPD review is explained in Section 3 of this report, and the recommended programme of action is set out in **Appendix A**. The following programme is proposed.
 - The Education and Healthcare SPDs should be revoked because they cannot be applied in a way that complies with the latest regulations. However, this will not prevent the negotiation of s106 obligations where a development generates a direct need for education or health provision.
 - The SPDs on ‘Designing Walsall’, on the Natural Environment, on Affordable Housing and on Urban Open Space should be revised to update them as well as to reflect the latest policies and regulations.
 - The SPD on Walsall Waterfront can be retained unchanged.
- 1.3 By way of background, the planning obligations delivered in Walsall since the SPDs were adopted are summarised in **Appendix B**.
- 1.4 A separate report on draft revisions to the Designing Walsall SPD and the Natural Environment SPD is elsewhere on the Agenda – this represents the first stage in the revision process.

2. Recommendations

- 2.1 That the strategy and programme for review of the Council's adopted Supplementary Planning Documents outlined in Section 3 and **Appendix A** of this report be approved;
- 2.2 That Cabinet agrees to receive further reports at future meetings on draft revisions to the Affordable Housing and Urban Open Space Supplementary Planning Documents as a basis for Public Participation, in accordance with Regulation 17 of the Local Development Regulations 2004 (as amended);
- 2.3 That Cabinet also agrees to receive further reports at future meetings, recommending adoption of proposed revisions to each of the supplementary planning documents to be revised, following Public Participation and approval by the Planning Committee; and
- 2.4 That the Head of Planning and Building Control be authorised to refer the Education and Healthcare Supplementary Planning Documents to the Secretary of State for Communities and Local Government, with a request that they be revoked.

3. Background information

CIL and Planning Obligations - Recent Changes

- 3.1 On 8 June (see report on Proposed Development Plans for Homes and Enterprise in Walsall - Review of Local Development Scheme), Cabinet authorised the preparation of an Infrastructure Plan and a Charging Schedule to support the introduction of a Community Infrastructure Levy (CIL) regime in Walsall. The legislation that allows authorities to introduce CIL is now in place, but it will take some time for the Council to implement this. The types of infrastructure that can be provided through CIL are also prescribed in the legislation, and at the present time this does not include affordable housing.
- 3.2 As was reported previously, Walsall is not expected to have a local CIL regime in place until the end of 2013. In the meantime, the Council can continue to seek 'planning obligations' through agreements with developers under Section 106 of the Town and Country Planning Act 1990 (as amended) (S106 agreements), to provide new infrastructure, or upgrade existing infrastructure, where the development will generate a need for this. These arrangements will apply until April 2014, when CIL comes into effect everywhere, or until a local CIL charging regime is in place if this is sooner. From April 2014, it will still be possible to seek planning obligations for provision of on-site infrastructure and affordable housing, but it will not be possible to "pool" contributions from more than five S106 agreements for any infrastructure project or type of infrastructure.
- 3.3 Although CIL will partly replace planning obligations in the future, there are fundamental differences between the two regimes. CIL is effectively a "tax" on development, which can be used to fund any infrastructure (as defined by legislation), anywhere in the Borough. Planning obligations are compensation, to mitigate the impacts of a particular development on existing local infrastructure.

Any planning obligation sought by the Council in relation to a particular development must therefore relate to a need generated by that development.

- 3.4 Until a local CIL regime is in place, we are in a transitional period, during which time the existing planning obligations system will continue to operate. For the time being, this is the only mechanism available to the Council to fund new infrastructure through new development within the Borough. As this situation is expected to continue for at least the next two years, the Planning Committee needs an up-to-date planning framework to use as a basis for negotiation with developers.

Walsall LDF and the Role of Supplementary Planning Documents

- 3.5 The planning framework we currently have is the Walsall Local Development Framework (LDF). This is the 'portfolio' of local land use plans adopted by the Council, which guide the delivery of new development across the Borough. The LDF provides a spatial strategy for Walsall, identifying the sites and broad locations where new development and growth will be focused. It also identifies the infrastructure we need to support the levels of growth anticipated between now and 2026.

- 3.6 The Walsall LDF currently includes the following plans:

- Black Country Core Strategy (BCCS) 2011;
- Walsall Unitary Development Plan (UDP) 2005 – “saved” policies and adopted Proposals Map and Town and District Centre Inset Maps;
- Supplementary Planning Documents (SPDs):
 - Affordable Housing (adopted April 2008)
 - Designing Walsall (adopted February 2007)
 - Education (adopted February 2007)
 - Healthcare (adopted January 2007)
 - Natural Environment (adopted April 2008)
 - Urban Open Space (adopted April 2006)
 - Walsall Waterfront (adopted November 2006); and
- Walsall Statement of Community Involvement (SCI) 2006.

- 3.7 The BCCS and UDP are the main elements of the statutory **development plan** for Walsall.¹ By law, the Council must determine planning applications in accordance with the development plan unless “material considerations” indicate otherwise. The Council’s development plan policies include requirements for provision of infrastructure to meet the needs of new development. In some cases these requirements may be met through planning obligations, and details can be set out in other LDF plans (see BCCS Policy DEL1 and “saved” UDP Policy GP3). Although **supplementary planning documents** (SPDs) have lesser

¹ The other element of the statutory development plan is the West Midlands Regional Spatial Strategy 2008, which is a plan for the whole region, and is not part of the Walsall LDF. The Government has announced its intention to abolish the RSS system, but this will require the enactment of the Localism Bill and other legal requirements being met.

status than the development plan, they have an important role in explaining how the Council will apply development plan policies.

- 3.8 As well as providing general guidance on compliance with development plan policy, some SPDs explain how and when the Council will address infrastructure requirements generated by new developments, where these are identified in development plan policy, through planning obligations. This includes seeking provision of infrastructure within a development (on-site), or where appropriate, contributions towards off-site provision near to the development, in the form of compensatory payments.

Why the SPDs Need to be Reviewed

- 3.9 The SPDs in the Walsall LDF were all adopted between 2006 and 2008. They now need updating for the following reasons:
- They were prepared before the CIL Regulations 2010 came into effect, so we need to check they are consistent with the “tests” that now apply;
 - They were prepared before the BCCS was adopted, and while they are consistent with BCCS policies, they do not explicitly support them;
 - In some cases, the evidence base for local infrastructure needs has been updated since the SPDs were adopted; and
 - The Black Country Local Enterprise Partnership has recently launched its “Black Country – Open for Business” initiative, which needs to be reflected in the approach we take towards developer contributions in Walsall.
- 3.10 It is therefore time for the Council to review the content and continuing relevance of its SPDs, so that obsolete guidance can be withdrawn and other guidance can be updated to reflect current policy and practice. The Council will then have an up-to-date framework that can be applied to decision-making and used as a basis for negotiating planning obligations, where this is justified and appropriate.

SPD Review - The Proposals

- 3.11 There are seven adopted SPDs in the Walsall LDF, as listed at paragraph 3.5 above. Officers have reviewed each SPD to establish which ones should be retained without any change, which ones should be retained but need to be revised and updated, and which ones are no longer required. The outcome of this review, and the recommended approach, is summarised below. Further details, including a recommended programme for reviewing the SPDs that require updating, is set out in **Appendix A**.

SPDs Requiring No Change

- 3.12 The **Walsall Waterfront SPD** expands on ‘saved’ UDP Policy WA12: Town Wharf (“Walsall Waterfront”). This policy has not been affected by the adoption of the BCCS, so there is no need to revise the SPD at the present time. In due course, UDP Policy WA12 will be superseded by the Walsall Town Centre Area Action Plan (AAP), and at that stage, the Council will need to consider whether

the SPD is still required. However, as the AAP will not be in place until the end of 2013, the SPD remains relevant. It is therefore recommended that for the time being, the SPD should be retained without any change.

SPDs Requiring Revision

- 3.13 As affordable housing is not currently proposed to be covered by CIL, the Council will still be able to negotiate on-site provision through planning obligations after it has been introduced. The Council's current **Affordable Housing SPD** explains how UDP Policies GP3: Planning Obligations and H4: Affordable Housing will be applied through the development management process. Although UDP Policy GP3 is still in place and remains relevant, Policy H4 has been partly replaced by BCCS Policy HOU3: Delivering Affordable Housing. The SPD therefore needs to be revised to reflect revisions to the development plan policy. There is also a need to review the housing need information on which the SPD is based, to reflect the latest technical evidence provided by the Walsall Housing Needs Assessment Update (HNA Update Report), published in February 2011.
- 3.14 The **Designing Walsall SPD** expands on 'saved' UDP policies on design, in particular ENV32: Design and Development Proposals and ENV33: Landscape Design and ENV34: Public Art, and outlines the general principles of good design for new developments. The SPD remains useful and relevant, but is in need of updating because it does not refer to relevant BCCS policies, even though it is consistent with them. The SPD also contains Policy DW9: High Quality Public Realm, which includes requirements for developer contributions towards public art. This policy needs to be revised to clarify how UDP Policy ENV34 will be applied in the light of the current regulations on the use of s106 obligations. Draft revisions to the SPD have already been prepared and are the subject of a separate report on the Agenda.
- 3.15 The **Natural Environment SPD** provides further guidance on the application several 'saved' UDP policies on nature conservation and biodiversity. It also provides guidance on addressing potential impacts on species and habitats protected under the Habitats Directive. Although this guidance remains relevant and is consistent with BCCS policy, some of the UDP policies that the SPD supports have now been replaced with BCCS Policy ENV1: Nature Conservation. Consequently, there is a need to update the SPD to reflect the current development plan framework. Draft revisions to the SPD have already been prepared and are the subject of a separate report on the Agenda.
- 3.16 The **Urban Open Space SPD** explains how new developments should contribute towards open space, in support of 'saved' UDP Policies GP3: Planning Obligations and LC1 – LC6 relating to open space, children's play, allotments, greenways and sports pitches. Whilst these policies are still in place, the evidence the SPD is based on has been updated since it was adopted. The recent Open Space, Sport and Recreation (PPG17) Audit and Assessment (February 2011) sets out the latest position on local needs. The SPD also needs to be aligned with relevant BCCS policies, in particular, CSP3: Environmental Infrastructure and ENV6: Open Space, Sport and Recreation. The guidance could still be applied when seeking on-site provision of open space, where this is justified, even after a local CIL regime is in place. It is therefore recommended that the SPD should be revised and updated.

SPDs No Longer Required

- 3.17 The **Education SPD** and **Healthcare SPD** provide supplementary guidance on contributions sought through 'saved' UDP Policy GP3: Planning Obligations and UDP Strategic Policy Statement 8.7 – 8.9. They explain the circumstances where the Council will seek developer contributions towards educational and healthcare infrastructure, where a need for this would be generated by a new housing development, in accordance with the UDP policy. Whereas the contributions collected to date towards education have been significant, contributions towards healthcare provision to date have been relatively modest (see Section 6 below and **Appendix B** for details).
- 3.18 Under the current regulatory framework, planning obligations are unlikely to be able to make a significant contribution towards these types of infrastructure in the future, in the absence of evidence that a new housing development is generating a need that must be met through expansion or upgrading of existing education and healthcare infrastructure. However, when developing its CIL Charging Schedule and Infrastructure Plan, the Council can consider whether educational and healthcare infrastructure projects might be part-funded through CIL, which will replace the current planning obligations regime from 2014 onwards, for the purpose of funding these types of infrastructure.
- 3.19 In the meantime, officers are recommending that the Education and Healthcare SPDs should be revoked, because they are no longer consistent with the legal requirements for planning obligations, and cannot be applied in their current form. If they were revised, it is unlikely that the SPD revisions would be adopted before September 2012, assuming that they would follow the same timetable as the Affordable Housing and Urban Open Space SPDs (see Appendix A). They would therefore only have a relatively short life following adoption, before they were superseded by the new CIL regime. It would be a more efficient use of the Council's limited resources to focus on the development of a CIL charging schedule than to revise these SPDs at this point in time. As the Council does not have the power to revoke these SPDs unilaterally (see Section 7 for details), this matter has to be referred to the Secretary of State for Communities and Local Government for decision, hence the action recommended at 2.3 above.
- 3.20 If the SPDs were revoked, the 'saved' UDP policy they support would still be in place, and this already provides sufficient detail to indicate when the application of the policy will be appropriate, in respect of each individual planning application for a new housing development. Therefore, even if Cabinet agrees to revoke the SPDs, the Council could still seek planning obligations towards education or healthcare infrastructure pending the introduction of CIL, where it was justified. This could happen, for example, if Walsall Children's Services or NHS Walsall were able to demonstrate that existing services are under pressure and that to provide a satisfactory service to the residents of a new housing development, a new facility would have to be provided, or an existing facility would have to be upgraded. To be justified, it would also be necessary to identify the specific education or healthcare project(s) that planning obligations would contribute to, and the timescale within which the specified project(s) would be implemented. If Cabinet is minded to agree this approach it will be necessary for further

discussions with Walsall Children's Services and NHS Walsall, to decide how and when the UDP policy will be applied.

SPD Revisions – Proposed Timetable

- 3.21 **Appendix A** includes a recommended programme for SPD revision, public consultation, and adoption of revised SPDs by Cabinet in April 2012. Where possible, it is proposed that consultation on SPD revisions will be carried out in association with consultation on other relevant plans and strategies. For example, it is proposed that consultation on the revisions to the Natural Environment SPD and the Designing Walsall SPD will happen at the same time as consultation on the Issues & Options for the Walsall Site Allocations Development Plan Document and the Walsall Town Centre Area Action Plan, and the CIL Issues Paper, in accordance with the timetable agreed by Cabinet on 8 June 2011. Preparation of the Urban Open Space SPD will also be undertaken in parallel with the review of the Council's Greenspace Strategy, so that there will be consistency between these documents.
- 3.22 As the Planning Committee will be applying the revised SPDs when they make decisions in future, they will need to be involved in the preparation of the revisions. It is therefore proposed that the endorsement of the Planning Committee be sought on the proposed SPD revisions, before adoption reports are received by Cabinet.

4. Council priorities

Communities and Neighbourhoods

- 4.1 When large-scale developments are proposed, they can have significant implications for local communities because they can put pressure on the local infrastructure. Such impacts are addressed through the development management system. In some cases, developers will address the impacts directly by addressing them within the scheme. For example, the development may include new facilities to replace facilities to be lost because of the development, or may include a new facility to serve the needs of the new development.
- 4.2 Planning Committee may also authorise planning obligations. These are legal agreements, requiring a developer to either provide infrastructure themselves, either on-site or on a site nearby, or to pay a contribution towards infrastructure to be provided by the Council or its partners. For example, since the Education SPD was adopted in February 2007, there have been significant contributions towards improvements to local schools, to mitigate the scale of housing development that has taken place in the Borough (see Section 6 below). However, it is unlikely to be possible to secure similar levels of contributions in the future, because of the need to strictly apply the "tests" in the CIL Regulations. The economic downturn has also affected the Council's ability to secure planning obligations in some cases, even where they are justified. This could have a significant effect on the Council's ability to provide new or expanded education infrastructure, with consequential impacts on local communities.

- 4.3 Supplementary Planning Documents (SPDs) are part of the Council's Local Development Framework (LDF). They provide guidance on managing the impacts of development on the environment, and on the circumstances where planning obligations may be sought from developers to offset the impact of development on the Borough's infrastructure, in accordance with development plan policy. However, SPDs are expected to be kept up-to-date, which is why it is necessary to review them when major legal and policy changes have occurred.
- 4.4 It is not considered appropriate to revise the Education SPD pending the introduction of a CIL charging schedule, for the reasons outlined at paragraph 3.19 above. However, the UDP policy that the SPD supports is still in place. It will therefore still be possible for the Council to seek contributions towards upgrading or expansion of educational infrastructure through application of this policy, where a new housing development would generate a need. When preparing its charging schedule, the Council will also consider the extent to which educational infrastructure might be part-funded through the Community Infrastructure Levy (CIL), which will replace planning obligations as a mechanism for funding this type of infrastructure in due course.

The Economy

- 4.5 While planning obligations can benefit local communities, they can also increase the cost of development. However, a planning obligation is not a 'tax on development.' It is compensation for the impact of the development on the existing local infrastructure. Therefore, the Council may only seek a planning obligation from a developer where it passes the "tests" set out in the regulations (see Section 7 below). In some situations, seeking planning obligations may deter investment which might benefit the Borough's economy, or may impact on the viability of a development. The approach that Planning Committee adopts must therefore balance the need for compensation through planning obligations against the impacts this has on the development, and the wider economic benefits of the development, particularly where there are abnormal costs associated with development (e.g. poor ground conditions).

Health and Well Being

- 4.6 To date, planning obligations have provided relatively little in the way of contributions towards healthcare infrastructure in the Borough. As the guidance in the current Healthcare SPD is out-of-date and is not consistent with the CIL Regulations, it is recommended that it be revoked pending the introduction of CIL, which may provide a more effective funding mechanism. In the meantime, it is recommended that developer contributions towards healthcare provision continue to be negotiated as and when they are justified, as at present. The protection of the natural environment and the provision of an adequate urban open space network are also important to the general health and well-being of local communities. The Natural Environment and Urban Open Space SPDs are expected to continue to play a role in ensuring that new developments address their impact on the existing environmental infrastructure of the Borough, even after CIL is introduced. It is therefore recommended that they be retained and updated.

5. Risk management

- 5.1 If the impacts of new development cannot be offset through planning obligations, there is a risk that this could place increased pressure on the Borough's infrastructure. The sooner the updated SPDs are in place, the better placed the Council will be to apply the UDP and BCCS policies appropriately and manage the impacts of development, pending the introduction of the Community Infrastructure Levy (CIL). Work on revising the SPDs needs to be progressed as soon as possible, so that it does not affect delivery of the CIL Charging Schedule and Infrastructure Plan, which will partly replace planning obligations at the end of 2013, before the Government intends that limits on the use of planning obligations will come into force.

6. Financial implications

- 6.1 The purpose of the SPDs is to support the 'saved' UDP policies on planning obligations negotiated with developers. Since they have been adopted, the SPDs have helped to inform decisions on the application of the UDP policies to particular development proposals, and the types and levels of compensation that will be sought, where appropriate. When they were adopted, the SPDs provided certainty and clarity about the application of the UDP policies, which helped with the process of negotiation. However, as they are now out-of-date, they no longer fulfil this function, and the Council must decide whether to revise them or withdraw them.

- 6.2 **Appendix B** contains details of the contributions delivered through signed Section 106 agreements relating to planning permissions for housing and commercial developments by type of contribution, since the relevant SPD was adopted. In summary, as at 1 August 2011 the Council had collected the following payments towards off-site provision of infrastructure:

- Education – just over £500,000
- Healthcare – just over £5,000
- Public Art – just under £65,000
- Urban Open Space - just over £600,000

During the same period, developers had also provided 107 new affordable homes on-site within new housing developments, of which 70 were shared ownership homes, 26 were affordable rented homes, and 11 were reduced value open market homes.

- 6.3 Other S106 agreements have also already been signed that would provide more affordable homes and additional funding for the above types of infrastructure, if the planning permissions to which they relate are implemented. However, current market conditions and other factors mean that in some cases these permissions have lapsed. The revocation of the Education and Healthcare SPDs would not affect the S106 agreements already signed, as these are legally binding documents. Variations in site viability and legislative changes mean that the levels of planning obligations achieved in the past as indicated above and in **Appendix B** might not be deliverable in future, even if the current SPDs remain in place until the CIL regulations are introduced in full in 2014. This could have significant cost implications for the Council's future budgets, as these

contributions have provided an important source of supplementary funding for education and open space infrastructure, for example, enabling the Council to fulfil its statutory obligation to maintain a sufficient supply of pupil places.

- 6.4 When the Council has a Community Infrastructure Levy (CIL) charging regime in place, this will replace S106 agreements as a means of funding educational, healthcare and open space infrastructure, but not necessarily affordable housing or public art. However, it is yet not certain whether CIL will contribute towards such projects in Walsall. This will depend on what the Council decides to include in its CIL charging regime at the appropriate time.
- 6.5 It is anticipated that the cost of revising the SPDs, and any environmental screening assessments and other assessments required, will be met through existing revenue budgets within the Regeneration Directorate. Efficiency and cost savings will be achieved by consulting on the Natural Environment SPD revisions at the same time as the Issues & Options consultation on the Walsall Site Allocations DPD, Walsall Town Centre AAP, and the proposed CIL regime, by consulting on the other three SPDs in parallel, and by using online/ electronic methods for consultation wherever possible.

7. Legal implications

Community Infrastructure Levy (CIL) and Planning Obligations

- 7.1 The legal basis for negotiating planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended) has changed since the SPDs were adopted. This is now set out in the Community Infrastructure Levy Regulations 2010 (CIL Regulations). The 'tests' previously included in CLG Circular 5/05 now form part of the regulations and have legal status. This means that all planning obligations must be:
- (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.

(Regulation 122 (2), CIL Regulations 2010 (SI 2010 No. 948))

Any SPD providing guidance on planning obligations needs to be reviewed, to check that it is consistent with these requirements.

Environmental Assessment of Supplementary Planning Documents

- 7.2 All of the Council's SPDs were subjected to sustainability appraisal (SA) before they were adopted, in accordance with Section 19 (5) of the Planning and Compulsory Purchase Act 2004. In some cases, this included a strategic environmental assessment (SEA), in accordance with The Environmental Assessment of Plans and Programmes Regulations (SEA Regulations) 2004 (SI 2004 No. 1633). The Natural Environment SPD also required a screening assessment in accordance with The Conservation (Natural Habitats &c.) Regulations (Habitats Regulations) 1994 (as amended) (SI 1994 No. 2716, since replaced by The Conservation of Habitats and Species Regulations 2010, SI

2010 No. 490), to confirm that the SPD would not have adverse impacts on internationally important nature conservation sites ("European Sites").

- 7.3 Since the SPDs were prepared, Section 19 (5) of the Planning and Compulsory Purchase Act has been modified by the Planning Act 2008, and it no longer requires SPDs to be subject to SA. However, the SPD revisions may still require SEA if the Council determines that they are likely to have significant effects on the environment. All proposed SPD revisions will require a SEA screening assessment and Council determination in accordance with Regulations 9 and 11 of the SEA Regulations. It is possible that further Habitats Regulations screening of the Natural Environment SPD will be required, and further advice on this will need to be sought from Natural England.

Revision of Supplementary Planning Documents

- 7.4 The legal framework for preparation and revision of SPDs is provided by Sections 19 and 26 of the Planning and Compulsory Purchase Act 2004 (as amended), and Regulations 13, 15 and 16 – 23 of the Town and Country Planning (Local Development) (England) Regulations 2004 (as amended) (the Local Development Regulations). Regulation 17 requires the Council to consult with relevant stakeholders in connection with the preparation of the SPD revisions, and to consult the public on the proposed revisions before they are adopted. The revised SPDs must also be brought back to Cabinet for consideration and final adoption following the public consultation.

Revocation of Supplementary Planning Documents

- 7.5 The procedure for revocation of SPDs is set out in Section 25 of the Planning and Compulsory Purchase Act 2004 (as amended) and Regulation 21 of the Local Development Regulations. The Council may only revoke a SPD if it is no longer in conformity with the development plan policies it supports, or if it contains policies relating to the development of a site, and that development has been completed. This is not applicable to the Education and Healthcare SPDs, because the guidance in the SPDs is still in conformity with the 'saved' UDP policies it supports (GP3 and Strategic Policy Statement 8.7 – 8.9), and the SPDs do not relate to sites which have been developed. The Council must therefore refer them to the Secretary of State for Communities and Local Government, who has the power to revoke them.

8. Property implications

- 8.1 No direct implications for Council property have been identified, although there will be some implications for some Council property, as planning obligations have sometimes contributed towards the expansion of schools or upgrading of open spaces, where major residential development has generated a need for this. However, even if the Education SPD is revoked it will still be possible for the Council to negotiate contributions towards upgrading of educational infrastructure where this is justified, and where the legal 'tests' in the CIL Regulations are met (See Sections 3 and 7 above).

9. Staffing implications

9.1 Although the Planning Policy Team (Regeneration Services) will manage the overall SPD review programme, including the environmental assessment/screening assessment process, they will not have the capacity to undertake all the work required on the revisions to the SPDs. It is anticipated that the following Council sections will also need to be involved:

- Development and Delivery (Regeneration Services) – will undertake the revision of the Designing Walsall SPD and Natural Environment SPD;
- Housing Strategy (Regeneration Services) – will undertake revision of the Affordable Housing SPD; and
- Green Space Services (Neighbourhood Services) – will assist with the revision of the Urban Open Space SPD.

9.2 A programme for SPD revision has been mapped out and this is set out in **Appendix A**. Each of the revised SPDs must be subjected to public consultation. It is recommended that following the consultation, the SPDs will be revised to reflect the comments received, and that they will then be reported to Planning Committee for approval. The approved documents must then be formally adopted by Cabinet, so further reports on the adoption of the revised SPDs will be prepared at the appropriate time.

10. Equality implications

10.1 An Equality Impact Assessment (EqIA) Questionnaire has been completed for this report – this covers the SPD review and proposed programme for revision. Each of the SPDs was subjected to EqIA before it was adopted, and potential impacts were addressed in the final documents. The SPD revisions will also be subjected to EqIA, in accordance with the Council's current policy. As the adoption of the SPD revisions will be a Key Decision, new EqIA Questionnaires will be completed and appended to the reports brought back to Cabinet on the adoption of the SPD revisions.

11. Consultation

11.1 The public was consulted on drafts of the SPDs before they were adopted, in accordance with the regulations in place at the time. The proposed programme for review of the SPDs, and the recommended approach, has been discussed with the relevant Council officers and stakeholders such as Walsall Children's Services and NHS Walsall. There will be further stakeholder engagement and public consultation (Public Participation) on the draft revisions to the Affordable Housing, Designing Walsall, Natural Environment and Urban Open Space SPDs before they are brought to Planning Committee for approval and to Cabinet for adoption. The public consultation must be for a minimum of four weeks in accordance with the regulations, and will be undertaken in accordance with the Council's Statement of Community Involvement (SCI).

Background papers

Black Country Core Strategy 2011

Walsall UDP 2005 – “saved” policies

Adopted Core Strategy and “Marked Version” of UDP are available on Council website:

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

Affordable Housing SPD (adopted April 2008)

Designing Walsall SPD (adopted February 2007)

Education SPD (adopted February 2007)

Healthcare SPD (adopted January 2007)

Natural Environment SPD (adopted April 2008)

Urban Open Space SPD (adopted April 2006)

Walsall Waterfront SPD (adopted November 2006)

All adopted SPDs are available on Council website:

http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_supplementary_planning_documents.htm

Planning and Compulsory Purchase Act 2004

<http://www.legislation.gov.uk/ukpga/2004/5/contents>

Planning Act 2008

<http://www.legislation.gov.uk/ukpga/2008/29/contents>

The Town and Country Planning (Local Development) (England) Regulations 2004 SI 2004 No. 2204 (September 2004)

<http://www.legislation.gov.uk/uksi/2004/2204/contents/made>

The Town and Country Planning (Local Development) (England) (Amendment) Regulations 2008 SI 2008 No. 1371 (June 2008)

<http://www.legislation.gov.uk/uksi/2008/1371/contents/made>

The Town and Country Planning (Local Development) (England) (Amendment) Regulations 2009 SI 2009 No. 401 (April 2009)

<http://www.legislation.gov.uk/uksi/2009/401/contents/made>

The Environmental Assessment of Plans and Programmes Regulations (SEA Regulations) 2004 SI 2004 No. 1633 (July 2004)

<http://www.legislation.gov.uk/nisr/2004/280/contents/made>

The Conservation of Habitats and Species Regulations (Habitats Regulations) 2010 SI 2010 No. 490 (March 2010)

<http://www.legislation.gov.uk/uksi/2010/490/contents/made>

Community Infrastructure Levy Regulations SI 2010 No: 948 (March 2010)

<http://www.legislation.gov.uk/uksi/2010/948/contents/made>

Author

Dawn Harris
Principal Regeneration Officer
☎ 652482
✉ harrisdawn@walsall.gov.uk

A handwritten signature in blue ink, appearing to read 'Tim Johnson', followed by a vertical line.

Tim Johnson
Executive Director Regeneration

20 October 2011

A handwritten signature in blue ink, appearing to read 'Adrian Andrew', followed by a vertical line.

Councillor Adrian Andrew
Deputy Leader
Portfolio Holder: Regeneration

9 November 2011

Appendix A:

**Walsall Local Development Framework (LDF)
Revision of Supplementary Planning Documents (SPDs): Proposed Strategy and Programme**

Title of SPD	Date Adopted	Proposed Strategy for SPD	Programme for SPD Revision (where applicable)					
			Prepare Draft SPD Revisions	Report to Cabinet (Draft SPD Revisions)	Statutory SEA Screening Assessment	Public Consultation (Reg. 17) (6 weeks)	Report to Planning Committee (Approval)	Report to Cabinet (Adopt SPD Revisions)
Affordable Housing	April 2008	Revise and Update	November/ December 2011	8 February 2012	February/ March 2012	May – June 2012	July 2012	September 2012
Designing Walsall	February 2008	Revise and Update	September/ October 2011	9 November 2011	November/ December 2011	January – February 2012	29 March 2012	July 2012
Education	February 2007	Revoke SPD as no longer compliant with the regulations	N/A	N/A	N/A	N/A	N/A	N/A
Healthcare	January 2007	Revoke SPD as no longer compliant with the regulations	N/A	N/A	N/A	N/A	N/A	N/A
Natural Environment	April 2008	Revise and Update	September/ October 2011	9 November 2011	November/ December 2011	January – February 2012	29 March 2012	July 2012
Urban Open Space	April 2006	Revise and Update	November/ December 2011	8 February 2012	February/ March 2012	May – June 2012	July 2012	September 2012
Walsall Waterfront	November 2006	No Change	N/A	N/A	N/A	N/A	N/A	N/A

APPENDIX B

Walsall Local Development Framework (LDF): Section 106 Agreements - Summary of Planning Obligations Delivered 2005 – 2011

Type of Planning Obligation	UDP Policy Requirement (April 2005)	Relevant Supporting SPD	Date SPD Adopted	Planning Obligations Delivered since SPD Adopted		
				Off-Site (Contributions) ¹	On-Site Provision	Major Projects Supported through Planning Obligations
Affordable Housing	GP3, H4 ²	Affordable Housing	July 2005 (revised April 2008)	None	Affordable homes ³ delivered on-site: Shared Ownership – 39 2-bed, 19 3-bed, 3 4-bed, 9 not known Affordable Rented – 2 1-bed, 12 2-bed, 11 3-bed, 1 not known Reduced Value Open Market – 5 1-bed, 6 2-bed	Housing developments delivering more than 10 affordable homes: <ul style="list-style-type: none"> • Former TWR Automotive, Woden Road, Wednesbury; • Former Neptune PH, Bilston Lane, Willenhall; • Former Henry Squire & Sons, Lichfield Road, New Invention; • The Keep, Stafford Road, Wednesbury; • Leamore Lane (adj. Wyrley & Essington Canal), Bloxwich.
Education	GP3, Strategic Policy Statement 8.7 – 8.9	Education	February 2007	£518,600	None	<ul style="list-style-type: none"> • Barr Beacon Language College – Additional Music Technology/ Drama Accommodation; • Brownhills Technology College – New Food Technology Room; • Frank F Harrison Engineering College – New Science, Technology, Engineering and Mathematics (STEM) Centre; • Joseph Leckie Community Technology College – Upgrading of Art Block; • Leighswood School – Replacement/ Remodelling of Temporary Classrooms; • Streetly Specialist Sports College – New Changing Rooms for Sports Hall; • Willenhall Sports College – Upgrading of Dining Room.

Type of Planning Obligation	UDP Policy Requirement (April 2005)	Relevant Supporting SPD	Date SPD Adopted	Planning Obligations Delivered since SPD Adopted		
				Off-Site (Contributions) ¹	On-Site Provision	Major Projects Supported through Planning Obligations
Healthcare	GP3, Strategic Policy Statement 8.7 – 8.9	Healthcare	January 2007	£5,100	None	None to date
Public Art	GP3, ENV34	Designing Walsall	February 2008	£65,600	None	<ul style="list-style-type: none"> Walsall Town Centre “Way Finding” Project – improvements to signposting/ connections between different areas of the town centre.
Urban Open Space	GP3, LC1 – LC6	Urban Open Space	April 2006	£612,500	None	<ul style="list-style-type: none"> Various “Playbuilder Wave 1” projects (borough-wide); Improvements to Anchor Meadow, Aldridge; Improvements to Blackwood Park and Pavilion, Streetly; Improvements to open spaces in High Heath and Shelfield; Improvements to Highfield Road North Play Area, Pelsall; Improvements to King George V Playing Fields, Bloxwich; Improvements to Kings Hill and George Rose Parks, Darlaston; Improvements to Moorcroft Wood Local Nature Reserve, Moxley; Improvements to Oak Park and Shire Oak Park, Brownhills; Improvements to Rushall Park, Radleys Open Space and Rushall Village Green.

Notes on References:

1. Off-Site (Contributions) = total net compensatory payments received from developers to date (01.08.11), rounded to the nearest £100.

2. “Saved” UDP Policy H4 was replaced by Core Strategy Policy HOU3: Affordable Housing in February 2011 but UDP Policy GP3 is still in place.

3. Affordable homes delivered on-site - includes flats and houses .