



Walsall Council

PLANNING COMMITTEE

7 March 2024

REPORT OF HEAD OF PLANNING & BUILDING CONTROL

Response to local plan consultations – Cannock Chase and City of Wolverhampton Councils

1. PURPOSE OF REPORT

- 1.1 To consider and agree the council's response to local plan consultations from Cannock Chase District Council and City of Wolverhampton Council (CWC)

2. RECOMMENDATION

- 2.1 That Planning Committee agree responses based on those set out in the appendices, and authorise the Executive Director for Economy, Environment & Communities, in consultation with the Portfolio Holder for Regeneration, to submit the response to the respective councils.
- 2.2 That Planning Committee authorise the Head of Planning and Building Control to amend the final responses as necessary.

3. FINANCIAL IMPLICATIONS

- 3.1 None arising directly from this report.

4. POLICY IMPLICATIONS

- 4.1 Following the decisions of the four local authorities to cease work on the Black Country Plan (BCP), each authority is now beginning work on their own local plans. They are also individually responsible for responding to consultations on local plans being prepared by neighbouring local authorities, both within the Black Country and elsewhere.
- 4.2 Walsall and the other Black Country authorities are heavily constrained, with much undeveloped land being green belt. We are therefore reliant on authorities outside the Black Country to contribute to meeting some of our needs for housing and employment land through the allocation of land in their respective local plans, that is additional to that required to meet their local needs. Proposals in neighbouring authority areas can also impact on Walsall, especially where large developments are proposed close to the boundary that

could for example increase traffic levels or result in more demand for schools and other services in Walsall.

- 4.3 Engagement with neighbouring authorities on local plan preparation currently takes place through the Duty to Cooperate (DtC) under the Localism Act 2011. This duty is proposed to be abolished under the Levelling Up and Regeneration Act 2023 (LURA 2023). It is proposed that the DtC is to be replaced by an 'alignment test' to be defined further and detailed in a future government policy statement. However, the date for commencement of the relevant provisions of the LURA 2023 and details of the alignment test have yet to be announced. The success of any DtC engagement may affect the scale of development need that will have to be met in the Walsall Borough Local Plan (WBLP).
- 4.4 The current consultation from Cannock Chase Council is in respect of the regulation 19 version of their local plan. This is the final version of the plan before it is submitted for examination. At regulation 19 stage, it is only possible to comment on whether the local plan is legally compliant and meets the tests of 'soundness' as set out in the national planning policy framework. Soundness is defined in the National Planning Policy Framework (NPPF).
- 4.5 The previous stage of the Cannock Chase plan, the preferred options, which was published in 2021, proposed 500 homes additional to local need, equivalent to 25 per year, as a contribution to meeting the needs of Birmingham and the Black Country, with that amount at the lower end of the options available. The total number of homes proposed for the period 2018-2038 was 6,016, equivalent to 301 per year. The proportion of homes to be affordable (at least 20%) was also lower than the evidence of need, which calculated that 37% should be affordable.
- 4.6 The Black Country authorities also made detailed comments on the proposed wording of policies for traveller sites, employment land and the Hatherton Canal restoration (which is linked to the Cannock Extension Canal SAC, part of which lies in Walsall).
- 4.7 The regulation 19 plan is considered ambiguous in respect of the total number of homes proposed. It states that a minimum of 5,808 dwellings will be delivered over the period 2018 to 2040. This figure (264 per year) is derived from the government's standard method for local need based on a 22-year period but fails to include any additional numbers to contribute to the needs of the Black Country. The policy also still states however that a 500 home contribution will be made towards the needs of Birmingham and the Black Country. The total figure in the plan should therefore be 6,308 homes. Whilst this is slightly higher than that in the preferred options document, the annual rate is lower because the regulation 19 plan is to cover an additional two years.
- 4.8 It should be noted that over the period 2018-2023 a total of 2,489 net new homes were completed in the district, equivalent to 498 per annum.

- 4.9 The plan is supported by a number of supporting documents as evidence. The development capacity study states that there is capacity for 5,419 dwellings on land that is not in the green belt, plus a further 1,002 dwellings on sites that are subject to constraints. There is also capacity for 6,747 homes on sites that are within the green belt. The district is constrained by much of its area being designated as national landscape (formerly the area of outstanding natural beauty).
- 4.10 City of Wolverhampton Council began consultation on the issues and options document (regulation 18) for their local plan on 26 February 2024. The issues and options stage is about asking what matters the plan should address. As such, it does not contain specific policies. In the main, the plan proposes to repeat the policies and designations that were proposed in the draft Black Country Plan.
- 4.11 A key difference from the Black Country Plan however is that the CWC local plan does not propose to meet the city's needs for housing or employment land. The plan states that none of the options being consulted on involve release of green belt land for development, and no green belt sites will be considered for development or assessed as reasonable alternatives throughout the plan preparation process. This is based on the revision to paragraph 145 of the NPPF that was made in December 2023. This paragraph now states: once established, there is no requirement for Green Belt boundaries to be reviewed or changed when plans are being prepared or updated. Authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process." As a result, it proposes to 'export' 11,413 homes to neighbouring authorities. This equates to approximately half the total need which is 21,720 homes over the plan period. 53 ha of employment land are also expected to be exported, which also equates to approximately half of the city's total need.
- 4.12 If the plan fails to provide for the city's needs, this will have significant adverse implications for neighbouring authorities. There is no indication that any offers have been made by neighbouring authorities to meet a the scale of these shortfalls. Unless these shortfalls can be met, there is considered to be a risk of the plan leading to a a worsening of overcrowding, homelessness, housing affordability and unemployment both within the city and within neighbouring authority aress.
- 4.13 NPPF paragraph 35 continues to state that "plans are 'sound' if they are positively prepared, providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs, and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development". .

5. LEGAL IMPLICATIONS

- 5.1 Local planning authorities are currently subject to a Duty to Cooperate with neighbouring planning authorities with regards to strategic cross boundary planning matters. The extent of engagement with neighbouring authorities will be tested as part of the examination of the respective authority local plans.
- 5.2 Local plans are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. The NPPF states that plans are 'sound' if, amongst other requirements, they seek to meet the area's objectively assessed needs; and are informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development.

6. EQUAL OPPORTUNITY IMPLICATIONS

- 6.1 The local plans will be required to ensure the needs of all sections of the community are met through equality impact assessments in particular.

7. ENVIRONMENTAL IMPACT

- 7.1 The local plans are accompanied by a sustainability appraisal and Habitat Regulations Assessment, which are required to be updated as the plans are progressed.

8. WARD(S) AFFECTED

- 8.1 All.

9. CONSULTEES

- 9.1 Officers in Planning and Building Control have been consulted in the preparation of this report.

10. CONTACT OFFICER

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11. BACKGROUND PAPERS

All published. Documents for the local plans can be viewed at the links in the appendices.

Appendix 1

Cannock Chase Local Plan – proposed Walsall Council response to regulation 19 local plan consultation

[Planning Policy | Cannock Chase District Council \(cannockchasedc.gov.uk\)](https://cannockchasedc.gov.uk)

Key Points

The consultation runs until 18 March 2024.

The previous stage of the Cannock Chase plan, the preferred options which was published in 2021, proposed 500 homes additional to local need to meet the needs of Birmingham and the Black Country, equivalent to 25 per year. This was at the lower end of the options available. The total number of homes proposed for the period 2018-2038 was 6,016, equivalent to 301 per year. The Black Country authorities commented that the housing capacity study that was published as evidence should clarify the total capacity of the area rather than confirming if there was capacity for this number. The proportion of homes to be affordable (at least 20%) was also lower than the evidence of need, which calculated that 37% should be affordable.

The Black Country authorities also made detailed comments on the proposed wording of policies for traveller sites, employment land and the Hatherton Canal restoration (which is linked to the Cannock Extension Canal SAC, part of which lies in Walsall).

The regulation 19 plan however is considered ambiguous in respect of the total housing requirement to be met by the plan. **Policy SO3.1** states that a minimum of 5,808 dwellings will be delivered over the period 2018 to 2040. This is the equivalent of 264 per year for local need based on the period 2018-2040 which is derived from the government's standard method. The policy also states that the plan will deliver 500 dwellings to contribute to the needs of the Greater Birmingham and Black Country HMA. If so, the policy should state clearly that provision will be made for a total of 6,308 dwellings rather than 5,808. The higher figure would appear to be the intended one, at least based on the 2023 capacity study which forms part of the supporting evidence. Paragraph 7.1 of the latter states that the 500 dwelling contribution gives rise to a need for land for 6,308 homes over the plan period.

NPPF (December 2023) paragraph 35 states that a plan is 'sound' if it is [amongst other requirements] positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development. .

Policy SO3.2 states that for developments above 10 homes, the percentages of dwellings which should be affordable are between 20 and 35%. This requirement should be for developments of 10 or more homes to match the definition of major development in the GDPO. These percentages are also lower than the previously

stated need for at least 37% to be affordable. Given that there will be no affordable housing requirement for sites of fewer than 10 homes, the requirement for larger sites should be greater than 37% to ensure the overall need is met. Any lower provision should be justified.

Other Issues

There appears to be a section numbering error between pages 6 and 12. Section 1. Non-Technical Summary jumps straight to 5. Local Plan Vision & Objectives.

On page 18 it states that the Cannock Chase Local Housing Needs Assessment identified a net annual need of 105 dwellings per year. It is assumed this should state 105 affordable dwellings per year.

Appendix 2

City of Wolverhampton Local Plan – proposed Walsall Council response to regulation 18 local plan consultation

<https://www.wolverhampton.gov.uk/planning/planning-policies/wolverhampton-local-plan/how-to-get-involved>

Key Points

The consultation runs until 10 April 2024

It is noted that the plan only proposes to meet approximately half the city's needs for housing or employment land, with the remainder expected to be exported to neighbouring authorities. There is no indication that any offers have been made by neighbouring authorities to meet the scale of these shortfalls. If the plan fails to provide for the city's needs, this will have significant adverse implications for neighbouring authorities in meeting their needs. There is therefore a risk of the plan leading to a worsening of overcrowding, homelessness, housing affordability and unemployment both within the city and within neighbouring authorities' areas.

The proposal not to allocate land for development that is currently designated as green belt, based on what is now paragraph 145 of the December 2023 NPPF, is noted. However, national planning policy should be read as a whole. NPPF paragraph 35 continues to state that "plans are 'sound' if they are positively prepared, providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs, and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development".

The consultation document contains options for housing and employment growth. However, it describes some of these as 'preferred' options. It is not appropriate to describe any particular option as 'preferred' at the regulation 18 stage. This would seem to be contrary to the Gunning principles. See <https://www.local.gov.uk/sites/default/files/documents/The%20Gunning%20Principles.pdf> . Furthermore, the decision not to include any option to allocate sites in the green belt would appear to be contrary to these principles.

Paragraph 5.20 of the document states that the four Black Country authorities have agreed an apportionment of the housing contribution from the Shropshire Local Plan which would result in some 593 homes being attributed to meeting needs arising in Wolverhampton. This is considered incorrect. Whilst a statement of common ground has been signed with Shropshire, no formal agreement has currently been made to apportion the offer from Shropshire between the individual Black Country authorities.