

6th December 2010

Adoption of the Black Country Core Strategy

Ward(s) All

Portfolios: Cllr A Andrew - Regeneration

Summary of Report:

This report is presented to the Panel to consider the Cabinet report that is scheduled for 15 December 2010. It is proposed that Cabinet should recommend to Council on 10 January 2011 that the Core Strategy be adopted as part of the development plan for Walsall (as well as for the wider Black Country). This should be as of the same date it is adopted by Dudley, Sandwell and Wolverhampton councils, which is envisaged to be in early February 2011.

The report explains the importance of adoption of the Core Strategy (JCS) for future decisions on planning applications, infrastructure and the Council's capital programme. The JCS will form the starting point for the production of detailed "daughter" development plan documents that will set out site-specific proposals. The JCS will also help to promote Walsall and the wider Black Country to provide confidence and certainty for investors.

Reason for scrutiny:

The Panel previously considered the JCS in November 2009 prior to the decision of Council to publish the document for public consultation and submission to the Secretary of State for examination. Following the Examination in Public, which took place in the summer of 2010, the Inspectors appointed by the Secretary of State have confirmed that the JCS is "sound". However, the Inspectors' Report has implications for particular topics, such as housing, the economy and the provision of land for employment. These implications are summarised below.

The JCS commits the local authorities to the preparation of future development plan documents to enable the proposals in the JCS, including the growth in jobs, homes and retailing, to be delivered. Production of these documents will require further staff time and resources but these should ensure that the investment already made over the last 5 years in the production of the JCS result in the economic and other benefits to the area being maximised.

Recommendations:

That Regeneration Scrutiny and Performance Panel:

1. Endorse the recommendations proposed to be made to Cabinet on 15 December:
 - *That Cabinet support the adoption of the JCS in accordance with the recommendations of the Inspectors' Report;*
 - *That Cabinet refer the JCS to Council with a recommendation that it resolves to adopt the JCS at the same time as other authorities on 3 February 2011 in accordance with Section 23(5) of the Planning and Compulsory Purchase Act 2004.*
 - *That, in the event that Council resolve to adopt the JCS, the Executive Director of Regeneration is authorised to:*
 - (i) approve any minor additional changes to the JCS document to prepare it for printing and publication as specified in the Inspectors' Report;*
 - (ii) arrange statutory publicity, printing and publication of the documents specified in the legislation.*
 - *That Cabinet note the very significant achievement of achieving a Core Strategy across four metropolitan borough areas.*
2. Receive a report to a future meeting concerning the programme for the preparation of other Development Plan Documents, prior to this being considered by Cabinet.

Background papers:

- Black Country Core Strategy Publication Version
- Inspectors' Report on the Examination into the Black Country Core Strategy *(both documents are already published)*

Resource and legal considerations:

The cost of adoption is covered by existing budgets. The JCS budget is administered by Sandwell Council on behalf of the four authorities. Joint working has resulted in considerable efficiencies to date: the estimated saving to date is £1m compared with the cost if each authority acted individually.

Citizen impact:

The JCS is intended to ensure that sufficient land is provided for housing, employment and other community needs, and that this land is secured in the most appropriate locations with adequate infrastructure such as schools and transport links. The JCS also aims to protect environmental assets and safeguard residents from the potential adverse impact of developments such as waste treatment and mineral extraction.

Environmental impact:

The improvement of the physical environment of the Black Country is a key element of the spatial vision described in the JCS. The strategy aims to address climate change, promote sustainable development and ensure development takes place on a “brownfield first” principle.

Performance management:

The preparation of the JCS has been managed by a steering group containing representatives from each Black Country Authority, the Government Office for the West Midlands and the Black Country Consortium. The Steering Group reports to the Black Country Joint Advisory Group, which consists of Portfolio Holders responsible for planning from each authority.

Each policy of the JCS includes indicators that will allow monitoring to take place, once the JCS is adopted, to show whether the objectives of the JCS are being achieved. The extent of performance against these indicators will be included in the Annual Monitoring Report.

The long lifespan of the JCS means that the policies are required to take account of uncertainty, for example changes in the economic situation that will affect the ability to deliver the housing numbers that are proposed. The Inspectors’ Report acknowledges that the JCS is sufficiently flexible to cope with changing economic cycles, and accepts that some elements of the strategy may not be delivered until the second half of the plan period. It is anticipated that a full review of the JCS will be needed around 2016.

Equality implications:

The JCS is aiming to secure an improved physical environment, additional homes and an increase in employment opportunities for all residents. The preparation of the JCS included a consultation process that aimed to ensure that the needs and aspirations of all sections of the community were taken into account. The draft JCS was subject to an Equality Impact Assessment at each key stage which was undertaken jointly with the other authorities as part of the Sustainability Appraisal (SA).

Consultation:

The JCS has been prepared in accordance with the approach to community involvement as set out in legislation and the Council’s adopted Statement of Community Involvement. Representations were received from over 160 interested parties at the Issues and Options, and Preferred Options stages, and 118 representations were made at publication stage.

The Inspectors’ Report confirms that preparation of the JCS accorded with the legal requirements for consultation. The Report concludes that the JCS benefits from considerable public support, and has positive endorsement from most organisations responsible for service delivery in the Black Country.

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1. Report

- 1.1 The previous development plan system, including this Council's Unitary Development Plan (UDP), is gradually being replaced by a Local Development Framework (LDF). The LDF comprises a suite of (DPDs), of which the JCS will set the strategic framework.
- 1.2 Adoption of the JCS is the culmination of more than 5 years of technical work by officers from the four authorities and the Black Country Consortium. Preparation of the LDF is the legal responsibility of each local planning authority. However, in 2006 the four Black Country Authorities of Walsall, Dudley, Sandwell and Wolverhampton agreed to produce a Joint Core Strategy for the whole Black Country. A cross-party Members' Group was established to brief Members in more detail about the proposals, to guide the technical work and to make the decisions associated with the proposed land use policies and geographical areas. The proposals were also considered by the Regeneration Scrutiny Panel prior to publication, most recently on 3 November 2009.
- 1.3 In January 2010 the authorities approved the JCS for publication and submission to the Secretary of State for public examination. The examination was to determine whether the document met the statutory tests of soundness. These tests include whether the evidence base is robust and credible, whether the document is the most appropriate strategy when considered against reasonable alternatives, whether it is deliverable and flexible, and whether the document is consistent with national policy.
- 1.4 The Inspectors issued their report in October 2010 following the examination in public in July 2010. The report confirms that the JCS is sound provided various minor modifications are made. These modifications deal with matters raised by third parties following publication as well as during the examination in public. Modifications are also necessary to address changes since publication, for example the revocation of the Regional Spatial Strategy (the RSS has subsequently been reinstated since the Inspectors' report as the result of a High Court challenge), and updates to data on housing completions, waste and minerals. The Inspectors' Report is binding on the authorities. The modifications recommended by the inspectors are generally accepted by your officers.
- 1.5 Details of the modifications, as well as the other implications of the inspectors' report for the future work of the Council, are set out in the attached appendices. The Inspectors give strong support to the strategy for the Black Country and endorse much of the work done by the local authorities (see **Appendix A**), but the report raises some implications in terms of planning policy, and also workload and resources. The issues in relation to particular topics, especially those that relate to Walsall and further work required, are set out in **Appendix B**.
- 1.6 The Inspectors comment that the soundness of the strategy depends on each authority preparing other DPDs to provide the details that cannot be included in the JCS. Following the adoption of the JCS, the Council will need to decide which DPDs it should prepare, and agree a timetable for preparing them. This will be the subject of a future Cabinet Report to be included in the Forward Programme. The Programme will also need to take into account the implications of emerging

changes in funding and legislation, such as the New Homes Bonus, the Community Infrastructure Levy and the Localism Bill.

- 1.7 The JCS is believed to cover the largest population of any core strategy in England. It will also be the first to be adopted in a major metropolitan area of its size. As such, adoption will give a major boost to the regeneration of the Black Country, providing certainty to private sector investors and a flexible framework to ensure the most efficient use of limited public sector funding.
- 1.8 Once adopted, the Core Strategy will supersede some of the policies in the UDP. Details of the superseded UDP policies are contained in Appendix 8 to the JCS. This means that from the date of adoption, the statutory development plan for Walsall will consist of the new Black Country Core Strategy, plus the remaining UDP “saved” policies which have not been superseded, as well as the West Midlands RSS (although the Secretary of State has repeated his intention that this should be abolished in future). The retained UDP (& RSS) policies will continue to be used as the basis for making decisions on planning applications, alongside the policies in the Core Strategy, until such time as they are replaced by “daughter” DPDs (or abolished).
- 1.9 The authorities will now need to move towards delivering this change. The JCS sets out in broad terms the amount of different types of development to be accommodated in the period to 2026, such as new housing, retail and employment. However, it does not by itself change the land use designation of individual sites, which is to be achieved through further DPD documents, for example a Land Allocation and Development Management DPD, and Area Action Plans, such as for Walsall Town Centre.
- 1.10 It will be necessary to jointly monitor progress on implementing the JCS policies through the delivery of new developments. Joint working on delivery and monitoring will require continuing input from officers and Members.

This is extracted from page 3 of the Inspectors' Report. It should be noted that the Report was issued before the High Court Judgement of 10 November 2010 that has had the effect of reinstating the Regional Spatial Strategy.

NON-TECHNICAL SUMMARY OF INSPECTORS' REPORT

This report concludes that the Black Country Joint Core Strategy [JCS] Development Plan Document provides an appropriate basis for the planning of the area to 2026. The Councils have sufficient evidence to support the strategy and have shown that it has reasonable prospects of being delivered.

A limited number of changes are needed to meet legal and statutory requirements. These can be summarised as follows:

- *Clarifying the wider context within which the JCS will be implemented, including in the light of the recent revocation of the Regional Spatial Strategy by the Secretary of State for Communities and Local Government;*
- *Making clear how retail needs will be met in accordance with national policy; removing Table 15 (Policy CEN3) and amending the policy as it relates to convenience shopping;*
- *Setting out more detail about how much additional office floorspace is planned in particular locations and clarifying how detailed proposals will be brought forward, particularly in West Bromwich;*
- *Minor amendments to ensure that the policies for different types of housing, including for gypsies and travellers, are consistent with national guidance, reflect local needs and allow flexibility to deal with local circumstances;*
- *Providing more detail on how any potential indirect effects arising from new development in the Black Country on the Special Area of Conservation at Cannock Chase in Staffordshire will be assessed and how and when any such mitigating action that may be required will be brought forward.*

*Nearly all the changes recommended in this report are based on proposals put forward by the Councils in response to points raised and suggestions discussed during the public examination. **They do not alter the thrust of the overall strategy at all.***

IMPLICATIONS FOR PARTICULAR TOPICS, ESPECIALLY THOSE THAT RELATE TO WALSALL, AND FURTHER WORK THAT WILL BE REQUIRED

General Points Raised by Inspectors

- The overall spatial strategy based on concentrating development within the “growth network” (strategic centres and regeneration corridors) is accepted as being the only realistic option for the area – the Council will therefore be able to resist development proposals which would conflict with or potentially undermine the strategy; This focus of regeneration on centres and corridors has benefits for private investment by providing increased certainty.
- The core policies (as modified) are supported – once the JCS is adopted they become part of the statutory development plan for Walsall and the Council must have regard to them when making decisions on the use and development of land. This will require briefing/ training of relevant Council officers and Members as well as developers and agents;
- The technical evidence underpinning the JCS is robust and credible – this is a testament to the amount of research undertaken by the authorities and their partners.
- Providing the JCS and its daughter documents have sufficient flexibility regarding the prospective timing of the necessary investment in infrastructure, it need not be rendered unsound by the likely impact of the Comprehensive Spending Review. In the absence of any large-scale public funding, the Council and its partners will need to consider new ways of delivering what the Borough needs, such as the remediation of derelict land to provide good quality employment sites, affordable homes, and new transport infrastructure.
- The Core Strategy provides an appropriate framework for delivery of infrastructure (particularly transport), and that this has the potential to be delivered through a local CIL scheme and/ or developer contributions. It is left up to the authorities to decide what types of developer contribution schemes they will use to fund new infrastructure, and this is expected to be addressed in other DPDs.
- The indicative targets for housing, employment land reservoirs and other requirements set out in the JCS are supported – however, there is an expectation that the specified targets and requirements for individual authorities will be further refined and defined in detail through other DPDs;
- The precise boundaries of development areas (such as for employment sites and housing), the borough’s centres, the primary shopping areas in Walsall Town Centre and the district centres, and areas of search for minerals, should be determined through the “next stage” DPDs. There is no need for a review of Green Belt boundaries or the release of presently unallocated greenfield sites for housing before 2016 at the earliest. Release of Green Belt or greenfield sites for

employment development would divert resources and attention away from the redevelopment of previously developed land in more sustainable location.

Housing

- The indicative housing targets are appropriate. Present commitments and sites already identified can provide the required new housing in the early years of the plan period. The JCS gives detailed phasing guidance to the Councils for their subsequent Area Action Plans and Site Allocation Documents that will provide for the release of surplus employment land, but such land is not generally expected to provide new housing before 2016.
- It is common ground that the Black Country needs to attract and retain higher income households to assist economic regeneration. Provision of housing for such groups on low density peripheral greenfield sites would be likely to harm the prospects of urban regeneration.
- The next stage Development Plan Documents (DPDs) should address at a more local scale details of the type and tenure of affordable housing, taking area variations into account.
- In a largely urbanised area forming part of a major conurbation, it is reasonable and appropriate to have a target minimum density for new housing schemes, albeit exceptions can be made in appropriate locations under defined circumstances.
- The numbers of new sites required for gypsies, travellers and travelling show people, and the criteria to be used for their identification, are appropriate. The Inspectors' recommendations on the JCS commit the authorities to allocate sites through the preparation of Site Allocation Documents and/or Area Action Plans.

Economy and Employment

- There remains a clear short term need to bring forward more new employment land and retain sufficient suitable employment land and buildings for smaller businesses, as well as larger ones on more prestigious sites.
- Currently, Walsall has a shortfall of vacant readily available land for industrial investment. It will therefore be very important to ensure that good quality employment land - whether vacant or occupied – is not lost to other uses, otherwise investment and jobs could be adversely affected in future, harming the Borough's regeneration prospects. If the required land is not brought forward in sufficient quantities, the Inspectors consider that there may need to be a full review of the Plan.
- The Inspectors endorse the deletion of the reference to new housing on the area to the south of Pelsall Road, Brownhills (this deletion is a change from the publication version of the JCS).

Centres

- The Inspectors endorse the strong presumption against out of centre development. They confirm that Walsall Town Centre has the physical capacity to accommodate the target for additional office floorspace in the JCS. However, the delivery of this floorspace is “ambitious”. Therefore, Walsall Town Centre should be the focus for office development.
- The Inspectors anticipate that an Area Action Plan (AAP) would be prepared for Walsall Town Centre. This would need to allocate land for offices whilst ensuring that such land does not become sterilised for long periods of time.
- The Inspectors now anticipate the final amounts of convenience retail development in the Black Country’s strategic centres will be examined through AAPs for each strategic centre. Any proposed development for a town centre use that exceeds 500sqm net floorspace - whether brought forward through a Walsall Strategic Centre AAP, a site allocations document or a planning application in the strategic centre will now be required to undergo an impact assessment.
- The report accepts that Darlaston Green is de-designated as a local centre.
- The detailed planning for leisure, entertainment and cultural facilities in the Black Country will need to be considered in a Walsall Town Centre AAP or a site allocation document in conjunction with the Council’s licensing policies and other partnerships outside the land use planning system. The report acknowledges that Walsall, West Bromwich and Wolverhampton strategic centres are priority areas for new cinema provision.

Transportation and Accessibility

- Mitigation measures to deal with traffic flows at the motorway junctions are necessary, but are not just the responsibility of the local councils in whose areas they arise.
- The report endorses the use of travel plans as a potential means of encouraging use of sustainable transport. Detailed requirements for travel plans should be set at a local level through other DPDs

Environmental Infrastructure

- Ongoing research is needed to investigate the numbers and origins of visitors to Cannock Chase in order to assess whether any effects (direct or indirect) on the Special Area of Conservation (SAC) are generated by the proposals within the JCS. If detrimental effects are proven, the level of effects attributable to the JCS will have to be determined and possible mitigation of such impacts may need to be addressed through ‘next stage’ DPDs.
- It is important that the JCS enables the protection and enhancement of existing open and green spaces within the Borough as a means of providing suitable alternative natural green spaces. Such provision would help to avoid Black Country development impacting on protected sites in areas outside the sub-region. Studies supporting the need for environmental transformation of the Black Country are ongoing and include work at both a Black Country level (Black Country Environmental Infrastructure Guidance – EIG) and a Walsall level (the

emerging Walsall PPG17 Audit and Assessment). Support for the adoption and utilisation of such work will be crucial to achieving environmental transformation

- The JCS sets a suitable policy framework for addressing other key environmental issues in the Black Country. These include protecting the Black Country's canal network, facilitating nature conservation alongside other strategic development, and setting targets for renewable energy generation and the protection of air quality where new development takes place.

Waste and Minerals

- The Inspectors have recommended that the part of the "Yorks Bridge" area within Walsall be identified as an area of search for fireclay extraction on the Minerals Key Diagram of the JCS.

Delivery, Implementation and Monitoring

- The report confirms that the JCS provides a suitable framework for delivery of infrastructure and concludes that the overall strategy is deliverable in principle. None of the infrastructure that cannot be delivered at present is considered critical to the delivery of the overall strategy;
- Despite the current economic conditions, the overall strategy is considered to be deliverable within the plan period, and to have enough flexibility within it to cope with changing economic circumstances – subsequent DPDs will also need to have regard to this and should also be flexible enough to adapt to change;
- The report assumes that the Delivery and Implementation Plan (DIP) will be reviewed once the outcome of the comprehensive spending review (CSR) is known – the results of this review will also need to be taken forward into the next-stage DPDs;
- The report stresses the importance of monitoring progress on delivery of key infrastructure projects, availability of funding, and ongoing liaison with service providers. It assumes that future reviews of the DIP will address any shortfalls in employment land or provision for transport infrastructure identified through monitoring;
- The report has endorsed the proposed arrangements for monitoring the implementation of the JCS. It stresses the importance of continuous and consistent monitoring and notes the commitment of the four authorities towards a new joint monitoring regime;
- It is anticipated that the joint monitoring of the Core Strategy will be over and above the individual authorities' normal Annual Monitoring Report (AMR) process – joint monitoring of the JCS does not remove the legal requirement for the Council to produce an AMR by the end of December each year;
- The report also notes that the authorities are committed to a full review of the Core Strategy half-way through the plan period (i.e. around 2016).