

## **Cabinet – 27<sup>th</sup> July 2016**

### **Walsall's Local Plan – Pre-Submission Modifications**

- Site Allocation Document (SAD);**
- Walsall Town Centre Area Action Plan (AAP); and**
- Draft Community Infrastructure Levy (CIL) Charging Schedule.**

**Portfolio:** Councillor Lee Jeavons,  
Deputy Leader and  
Portfolio Holder Regeneration

**Related portfolios:** All

**Service:** Regeneration and Development

**Wards:** All

**Key decision:** No

**Forward plan:** No

#### **1. Summary**

1.1 This report seeks approval for the following.

- i. Responses to the representations received as a result of the consultation on the 'Publication' drafts of the Walsall Site Allocation Document (SAD) and Walsall Town Centre Area Action Plan (AAP) and the Draft Community Infrastructure Levy (CIL) Charging Schedule. See Appendix A to this report.
- ii. Consultation on 'Pre-Submission Modifications' to the Publication Draft SAD, the Publication Draft AAP and the Draft CIL Charging Schedule, as well as on a revised Sustainability Appraisal and a revised Assessment under the Habitats Regulations. Revisions to the Appraisal (and the Assessment) trigger a legal requirement for consultation and this provides the opportunity for Pre-Submission Modifications to ensure that the Council's plans are as ready as possible for submission to the Secretary of State. The proposed Pre-Submission Modifications are provided as Appendix B to this report.

1.2 The report also makes recommendations about the arrangements for the consultation, for how the draft documents can be given some weight in planning decisions, and about how the plans can be progressed.

- 1.3 It is important to progress the plans in advance of the review of the Black Country Core Strategy, which the local authorities are committed to start before the end of 2016.
- 1.4 In this context it is proposed to undertake the consultation as speedily as possible. As can be seen from Appendices A and B, the consultation is to be based on fairly simple documents. However, the proposed modifications do affect the Policies Maps for the SAD and the AAP. Copies of these maps have been provided with this report, but - as these are rather small in size – full-sized copies will be available at the meeting and are also provided in the Members’ Rooms. The revised Sustainability Appraisal and the Habitats Regulations Assessment are large documents and copies are provided in Members’ rooms. All of the documents will be published on the Council’s website and referred to in correspondence with all of those who have been involved in the consultations on the plans so far. Copies of the Pre-Submission Modifications will be made available at the Civic Centre and in libraries,
- 1.5 The consultation should start as soon as possible after the Cabinet meeting, but it will be important to recognise that Cabinets’ decisions might generate some immediate media and / or public interest. When the consultation is started it will be promoted via the press and social media.
- 1.6 Unless the consultation raises fundamental issues that go to the heart of the plans (and which might practically be resolved by the council) it is proposed that the Publication Draft Plans and the results of the Pre-Submission Modifications consultation should be reported to a meeting of the Council (probably in October) to seek agreement for the plans to be submitted to the Secretary of State for the Examination of the plans to begin.

## **2. Recommendations**

- 2.1 That Cabinet agrees to publish material for consultation on three Walsall Local Plan documents:
  - a) Walsall Site Allocation Document – Pre-Submission Modifications
  - b) Walsall Town Centre Area Action Plan – Pre-Submission Modifications
  - c) Draft Community Infrastructure Levy Charging Schedule - Pre-Submission ModificationsPlus other related documents, including Schedules of Representations received at the Publication Stage and Council Responses, a revised Sustainability Appraisal and a revised Habitats Regulations Assessment.
- 2.2 That Cabinet agrees the consultation on all 3 documents should begin early in August 2016 and should run concurrently for 6 weeks.
- 2.3 That the detailed form and content (not the substance) of the emerging documents and consultation material be delegated to the Executive Director for Economy and Environment. If there are any changes to the ‘Pre-Submission Modifications, which would go to the substance of the issues in

question or the core of the policies such changes should be made by the Executive Director in consultation with the Portfolio Holder for Regeneration.

- 2.4 That Cabinet agrees this consultation should be publicised in advance of the start in August, and that all Members of the Council and all council services concerned with the use of land and premises should be asked to participate positively in the consultation and encourage members of the community and relevant interest groups to do so.
- 2.5 That Cabinet agrees - provided the consultation on Pre-Submission Modifications does not raise fundamental issues that go to the heart of any of the plans and which would be capable of practical resolution by the Council – the results of the consultation and the Publication Documents for the Site Allocation Document, the Area Action Plan and the Draft Community Infrastructure Charging Schedule are to be reported to a future meeting of the Council with a view to seeking agreement for their submission to the Secretary of State.
- 2.6 That Cabinet agrees to receive a report to a future meeting on Walsall's Local Development Scheme to provide a formal update to the programme for the preparation of the current Local Plan documents and to set out the programme for the Review of the Black Country Core Strategy.
- 2.7 That Cabinet advises Planning Committee that in making planning decisions weight can be given to those policies in the SAD and AAP where they are not the subject of objections or of Proposed Main Modifications.

### **3. Report detail**

#### Background

- 3.1 The Black Country Core Strategy, adopted in 2011, provides an overall plan for the regeneration of the Black Country (covering Dudley, Sandwell and Wolverhampton, as well as Walsall). When it was found sound, via an examination in public, the Planning Inspectors who considered it were clear that more detailed plans would be necessary to implement the strategy. Sandwell has prepared a borough-wide Site Allocations Document and a plan for the centre of West Bromwich, Dudley has prepared several Area Action Plans (including for Brierley Hill) and has recently been through the examination of a 'Development Strategy' document (setting out site allocations and development management policies), and Wolverhampton has prepared Area Action Plans and has recently been through the examination a Plan for the city centre. Dudley and Sandwell have been through the necessary processes to enable them to implement CIL, whilst Wolverhampton has decided not to introduce CIL.
- 3.2 In June 2011, Walsall's Cabinet approved the preparation of three documents.

- a) A Site Allocation Development Plan Document (SAD) to allocate sites for development for housing, employment and other uses across the borough (except for town and district centres);
- b) An Area Action Plan (AAP) for Walsall Town Centre, to allocate sites for development and to propose improvements to support the town centre; and
- c) An Infrastructure Plan and a Charging Schedule, to support the introduction of a CIL regime to levy charges on certain types of development, replacing a large part of the regime of s106 obligations.

3.3 The process for making statutory development plans is set out under the Planning and Compulsory Purchase Act 2004 (which describes them in terms of the Local Development Framework, although the Government now prefers to call them 'Local Plans'). The process requires consultation on 'Issues and Options' leading to an explicit choice of 'Preferred Options' before the council is required to produce a 'Publication' version of its plan(s) for consultation before submission to the Secretary of State. It was decided to work towards a CIL regime (which is subject to its own processes and requirements) in parallel with the SAD and AAP so as to share evidence and consultation arrangements.

3.4 The consultations undertaken so far by the Council have been in several stages.

- i. In 2011 and 2013-2014 the council undertook 'call for sites' exercises (to see if anyone wanted to propose sites for development).
- ii. In April-June 2013 the council carried out a major consultation on 'Issues and Options' for the SAD and the AAP. That generated a large number of responses, many of which expressed opposition to ideas for sites that had been put forward by landowners / developers in response to the 'call for sites'.
- iii. After careful consideration of the representations received plus the commission and consideration of evidence, the Council set out how it had identified 'Preferred Options' and consulted on Draft Plans for the SAD and AAP, and a 'Preliminary Draft Charging Schedule' for CIL in September-November 2015. That generated around 1,200 written representations (plus several petitions) the vast majority of which expressed strong opposition to proposals Council put forward to ask about the possibility of various sites being identified to meet needs for gypsy and traveller accommodation. The other representations covered a wide range of issues. They included several strong expressions of support for the general approach taken, whilst the various objections did not seriously challenge the thrust of the plans. Besides a detailed exercise to evaluate the potential to accommodate gypsies and travellers, only relatively minor changes to the plans were considered necessary to respond to the points raised.
- iv. The most recent stage of consultation has been on 'Publication' Drafts of the SAD and the AAP and a Draft Charging Schedule for CIL. This took place from 7<sup>th</sup> March – 3<sup>rd</sup> May 2016. The consultation involved correspondence to

about 2,500 contacts, press releases, depositing documents in libraries, exhibitions/stalls in the town and district centres, attending meetings of Area Panels and other groups, a 'drop-in event at Walsall Council House, and use of social media. In response to the consultation the council received about 140 representations, about 100 of which were in respect of the SAD. Half of the representations on the SAD related to the Policy for Great Barr Hall and Estate, but – as described below – the representations raised a wide range of issues.

### The Publication Consultation – Representations and Proposed Responses

- 3.5 Appendix A to this report provides – for each of the 3 plans, the SAD, the AAP and CIL - a summary of each of the representations received in response to the 'Publication' consultation, together with a proposed response on behalf of the council. Whilst the consultation was run within a specified period, some of the representations have been the subject of further discussion or correspondence to clarify them, whilst the Duty to Cooperate introduced by the Localism Act requires the Council to engage with certain public bodies on an "*on-going basis*". Such additional information is referred to at relevant points in the schedules. It is proposed that the schedules of Representations and Responses should be published to show how the Council has responded to the points made and as a basis to move forward with the plans.
- 3.6 It is notable that the system introduced by the 2004 Act does not limit the points that can be made at the different stages of consultation. Thus some of those who commented at the previous 'Preferred Options' stage have not felt it necessary to repeat their representations now, whilst others who did not comment previously have now made representations. The result has been that the Council has to respond on a wide range of issues. Details of all of the issues raised are set out in Appendix A. This appendix is split into 3 parts, one for each of the 3 documents. The key 'headline' issues raised in the representations (and not necessarily accepted on behalf of the Council) are as follows.

#### **(a) Site Allocation Document**

- i) Overall, there are a number of expressions of support and there are no serious challenges to the strategy, nor to the Council's evidence, including on viability and delivery.
- ii) Housing
- Some representations have referred to the relationship with the projected housing shortfall emerging from the Birmingham Development Plan and need to update to take account of latest household projections. It is contended that Green Belt, including for example land at Sandhills, should be released to accommodate additional dwellings.
  - It is also contended that many of the proposed housing sites on previously developed land are not deliverable
- Representations raising these issues were from or on behalf of landowners seeking to promote sites in the Green Belt.

iii) Flood Risk

- Ongoing discussions with the Environment Agency are necessary to confirm the extent of flood zones that may affect particular sites in the light of improving evidence and understanding of flooding risks. This particularly affects some potential housing and existing employment sites in Willenhall and Darlaston and the housing site at Cricket Close in Walsall.

iv) Cannock Chase Special Area of Conservation

- Some local authorities and statutory bodies have commented (to varying degrees) that provision should be made for new housing within a defined 'zone of influence' to pay towards measures to address increased visitor pressure

This relates to legal requirements concerning the Habitats Regulation Assessment and Sustainability Appraisal (Strategic Environmental Assessment) which have been the subject of lengthy discussions with local authorities in Staffordshire as well as Natural England

v) Hatherton Canal (only a small part of the potential route lies in Walsall): The Environment Agency and Natural England are concerned at the deliverability and potential impacts of the proposed restoration because of a lack of water supply and possible impacts on Cannock Extension Canal SAC [this is a separate issue to the Cannock Chase SAC].

vi) Minerals: Some minerals interests say that the Minerals Safeguarding Area mapping should identify individual minerals. There is some disagreement with the Council's view that prior extraction of minerals is unlikely to be viable in most cases.

vii) Gypsy and Traveller Sites: Few representations have been received at this stage [most of the potential sites identified previously are no longer proposed to be taken forward], although there have been objections to an allocation on part of the former Goscote Copper Works to ensure that provision can be ensured in the event that Dolphin Close might not go ahead..

viii) Site Specific Issues

- Great Barr Hall and Estate: Local residents, Sandwell Council and the local MP oppose policy wording that would allow enabling development  
This site attracted the largest number of representations to the Publication Document
- Moxley Tip and Heathfield Lane West: The owners of the sites. Local residents and others have submitted various representations on the relationship between proposed employment uses on Moxley Tip and housing on Heathfield Lane West. Some seek a reference in policy to need to provide some leisure and recreation on part of Moxley Tip, whilst there is a Site of Importance for Nature Conservation on part of Heathfield Lane West.

- Festival Avenue, Moxley is sought to be retained as open space in place of Moxley Tip rather than being allocated for housing.
- Willenhall Sewage Works: Further discussions are needed with site owner (Severn Trent) and the Environment Agency to address flood risk
- Cricket Close: Walsall Tennis club wish to retain the tennis courts. The Environment Agency identifies that part of site lies within a flood zone
- Highfields North, Walsall Wood: The would be developer refers to the dormant planning permission as meaning an adjacent site is unsuitable as housing allocation or to consider for release from industry to housing. Natural England ask that the minerals policy (M8) should be modified to address concerns about impacts on Jockey Fields SSSI
- Former Walsall Iron and Steel, Wolverhampton Road: Owner wishes to develop for industry rather than housing because of lower cost of cleaning site.
- Walsall Enterprise Park: Owner seeks that vacant land should be allocated for housing rather than employment.
- Tempus Ten (M6 Junction 10): Owner want flexible approach to land uses to allow leisure uses such as public houses or restaurants
- Clarkes Lane/ Charles Street, Willenhall: Owner says land is not needed for industry so other uses should be allowed.
- Brownhills Business Park: It is claimed the site is not viable for employment uses.
- Deeleys Castings, Leamore: Owner refers to Committee resolution for residential development so site should not be retained for industry
- Reedswood Golf Course: Owner of adjacent former Caparo site seeks to have the former golf course included in the housing allocation.
- Former Railway Tavern, James Bridge: Owner wants retail/ town centre uses on site
- Yorks Bridge: Agent on behalf of Potter Clay Company has presented material to seek to justify designation of an area of search for fireclay (as previously indicated in the Black Country Core Strategy).
- Middlemore Lane, Aldridge: Owner is seeking deletion of allocation as waste site

**(b) Walsall Town Centre Area Action Plan**

- i) Support for the creation of a plan for the town centre and for a number of the policies within the plan.
- ii) No serious challenge to the figures for office development in the centre and no evidence submitted to challenge the retail floorspace figures.
- iii) Arguments from some town centre interests that the Primary Shopping Area should be extended in parts of the town.
- iv) An argument submitted on behalf of two out-of-centre retail park interests that sites should not be identified for bulky retailing or convenience retailing because of the effects on out-of-centre developments.
- v) A suggestion has been made that the listed buildings within the Social Enterprise Zone area are better suited for residential use and that they should not be included in the designation.
- vi) Representations from the owners of the Portland Street that the site should not be allocated for educational investment as this is too restrictive.
- vii) Strong objection from the owners of Jerome Retail Park to the front of their site being redevelopment to allow for the extension to the bus interchange.

**(c) Community Infrastructure Levy Charging Schedule**

- i) A developer has made a representation seeking that zones for which CIL is to be charged to be defined on a different basis.
- ii) A consortium of social housing providers and a developer have questioned the proposal to levy a nominal charge (£5 / sq.m.) on residential developments where a more substantial charge does not appear to be viable.
- iii) Some representations question the potential imposition of CIL on social housing and whether or not an exemption might be applied.  
(The CIL Charging Schedule does refer to mandatory relief for social housing meeting criteria set out in the CIL Regulations.)
- iv) One set of representations supports the Council's proposals for payment instalments whilst another opposes the approach on the basis that mitigation measures should be in place in advance of or at the start of development.
- v) One representation seeks that CIL should not be introduced "*until the fundamentals of the housing supply and demand are resolved ....*"
- vi) Various interests have made representations seeking funding from the CIL regime including through inclusion on the 'Regulation 123 List' which sets out the infrastructure the Council intends to fund using CIL.



## **(d) Habitats Regulation Assessment and Sustainability Appraisal**

Perhaps the most difficult issues have been raised in respect of the assessments that are required to support the SAD and the AAP, in particular in respect of the Special Area of Conservation (SAC) at Cannock Chase. Various authorities in Staffordshire supported by Natural England have been seeking to operate a system to mitigate visitor impacts on the site by identifying a 'Zone of Influence' and levying a charge on housing developments within (some of) this area. Walsall officers have been concerned that the methodology employed does not take full account of the social and economic circumstances within Walsall, which could affect the propensity to visit Cannock Chase. Besides issues of the fairness of levying charges on housing in some of the most deprived parts of the country, there could be serious implications for the soundness of the plans, the viability of development and the workload in administering the system.

Officers have taken both consultancy and legal advice and from this it is concluded that the council should agree – with the authorities and statutory bodies involved - that mitigation could be sought from housing developments within the zone where the 'Cannock Chase SAC Partnership' is currently charging housing developments. This zone extends 8km from the boundary of the SAC and cuts across the very northern tip of the borough at Brownhills West and Newtown. The SAD does not propose any developments within the small area that would potentially be affected.

The approach will have to be reflected in a revised Habitats Regulations Assessment and as an additional option to be assessed in the Strategic Environmental Assessment element of the Sustainability Appraisal.

- 3.7 Straightforwardly, the next stage in the production of the plans would be for a report to be submitted to a meeting of the Council to agree that the plans, and the representations received (plus other documents) should be submitted to the Secretary of State for the Examination processes to begin. However, the need to address the issues raised in respect of the Habitats Regulations and the consequent need to amend the Sustainability Appraisal (and specifically the SEA) triggers a legal requirement for public consultation. This requirement provides the opportunity to also undertake public consultation on modifications to the plans themselves before they are submitted to the Secretary of State. Consultation on such 'Pre-Submission Modifications' is advocated as good practice by the Planning Inspectorate and ought to help expedite the Examination.
- 3.8 The proposed Pre-Submission Modifications to the documents can make useful responses to the representations received, respond to changes in circumstances and Government policy, and update the plans as well as improve them and make necessary corrections. The proposed modifications fall within 3 basic types.
  - i. Main Modifications – which make a significant amendment to policies or to other aspects of the plans in ways that could alter the interpretation and/or

application of policy. These need to be the subject of formal public consultation before they are submitted to the Secretary of State.

- ii. Minor Modifications – which might make factual updates or improve explanations but which in themselves would not alter policy or its interpretation or application. It is not necessary for these to be the subject of consultation but it is good practice to publish them and provide an opportunity for comments.
  - iii. Edits – corrections of minor errors and reformatting of text. These do not need to be the subject of consultation, but it is good practice to publish them.
- 3.9 The proposed modifications are intended to be published as schedules setting out how particular policies or pieces of text, or figures in the SAD and/or AAP, their Policies Maps, or the CIL Charging Schedule (and related Regulation 123 list of infrastructure) are proposed to be changed. Draft Schedules setting out the Main Modifications, Minor Modifications and (a far as they have been identified so far) the edits for each of the documents are provided as Appendix B to this report. The necessary details are contained within the Schedules, but the proposed Main Modifications are as follows.

**(a) Site Allocation Document**

- i) At the time of writing discussions are continuing with the Environment Agency on flood-risk issues. It appears that the possible introduction of a 'climate change allowance' to predict the future likelihood of flooding would not require changes to the allocations in the plan. However, for some sites there might be a need to recognise that site-specific flood risk assessments will be required to support future planning applications. Discussions are also continuing as to whether it is necessary to refer to the 'defended area at the River Tame / Waddens Brook which is protected by flood defences.
- ii) The identification of 'Assets' and 'Constraints' relating to various sites has to be ensured to be correct and complete, including with the proposed additions of gas pipelines and high voltage power lines, the Darlaston Enterprise Zone and the Local Development Order and permitted minerals sites.
- iii) The information in relation to housing sites is proposed to be updated to 31<sup>st</sup> March 2016 (with completed sites deleted), and with it being ensured data is consistent and complete with all relevant assets and constraints identified. In respect of specific sites, it is proposed to:
  - Delete one site
    - HO58 Walsall Road, Walsall Wood as there is an inability to ensure development because of its proximity to the dormant mineral permission at Highfields North
  - Amend two sites:
    - HO305 Cricket Close Walsall – exclude the flood zone from the developable area

- HO303 Healthfield Lane, Darlaston –exclude the Site of Importance for Nature Conservation from the developable area.
- iv) It is proposed to amend the text to Policy HC4 on Gypsy and Traveller accommodation to clarify that proposed provision is for permanent pitches.
- v) The information in relation to sites for industry is proposed to be updated to 31<sup>st</sup> March 2016 (with completed sites deleted), and with it being ensured data is consistent and complete with all vacant sites and relevant assets and constraints identified. In respect of specific sites, whilst the identification of assets and constraints (such as the Wolverhampton Road Site of Local Interest for Nature Conservation in relation IN63 Tempus10 North) might have some effects on the interpretation and application of policies, some of the Proposed Modifications might have implications for the developable areas of sites. Notably, the Proposed Modifications include changes to:
- Retain two sites as Local Quality Industry, rather than have them as consider for release sites, because of their proximity to potential mineral workings
    - IN6 Hall Lane, Walsall Wood – because of its proximity to the dormant permission at Highfields North (MP9)
    - IN8 Birch Lane, Stonnall – because of its proximity to the Area of Search for sand and gravel extraction (MXA1) easement
  - Amend several sites (mostly in respect of flood risk matters):
    - IN54.1, IN54.2, IN54.3 at Bescot Crescent, IN84 Central Point, Willenhall Road Darlaston, IN92 Aspect 2000, Bentley Mill Way Darlaston, IN105 Parallel 9-10, Darlaston, IN109 Box Pool, Darlaston, IN110 James Bridge Gasholder and South of Gasholders, IN205 Bentley Mill Way East, Darlaston – refer to the sites being adjacent to the River Tame/ Ford Brook corridors and partly within Flood Zones with requirements for Environment Agency 8m easements
    - IN93.1 and IN93.2 Axcess 10, Bentley Road North – refer to parts of the sites being within Flood Zone 2 (with part of IN93.2 in Flood Zone 3) with requirements for Environment Agency 8m easement
    - IN98.2 Former Railway Tavern, James Bridge – refer to the site being within Flood Zone 3 with a requirement for an Environment Agency 8m easement
    - IN78.3, IN 78 and IN78.12 at Longacres, Willenhall – add reference to the Tame Tunnel culvert which should not be built over and should provide an easement to ensure access
    - Combine IN78.5 and IN78.13 at Longacres, Willenhall as the latter site has become vacant
    - IN44.1 in the Chuckery - to exclude Burleigh House, reflecting a recent planning application
    - IN122 Former Moxley Tip – to exclude the small part of the site covered by a Site of Interest for Nature Conservation.
- vi) It is proposed to add several sites to the open space network

- The nature conservation areas excluded from sites HO303 Healthfield Lane, Darlaston, and IN122 Former Moxley Tip
  - Land at St Anne's Road / Stringes Lane, Willenhall
  - The accesses to open spaces at OS5003 Alexandra Road and OS5012 Trees Road, Walsall
- vii) It is proposed to amend Policy UW1 to make it clear that whether space would be surplus to requirements would not be the only criterion to consider in assessing development proposals.
- viii) It is proposed to amend the Greenway at site IN315 Bentley Mill Way, Darlaston to provide for it to run adjacent to rather than upon the site.
- ix) It is proposed to amend Policy GB2 so that the re-use of redundant buildings for development will relate to whether they are *"of permanent and substantial construction"*.
- x) It is proposed to amend Policy EN1 to ensure that account is taken of possible nature conservation impacts outside of the borough as well as within it, referring to the Cannock Chase SAC, and also to provide for the possibility of compensatory as well as avoidance or mitigation measures.
- xi) It is proposed to amend Policy EN4 on Canals, to reflect that the Hatherton Canal Restoration might not be able to receive a sufficient water supply so the indicative route could come forward as a 'green infrastructure' link instead.
- xii) It is proposed to present a redraft of Policy EN7 and the supporting text on Great Barr Hall and Estate, to provide a more up-to-date and clearer policy. However, the policy still anticipates that some 'enabling development will be necessary to ensure the preservation and maintenance of the listed Hall and registered parkland. The policy is not prescriptive as to the form any enabling development might take, but it is clear that the amount of development will be limited that impacts on the environment should be controlled and that the benefits of any proposals should outweigh any negative implications.
- xiii) The information in relation to waste management sites is proposed to be updated to 31<sup>st</sup> March 2016 (with completed sites deleted), and with it being ensured data is consistent and complete with all relevant assets and constraints identified. In respect of specific sites, it is proposed to:
- Delete one allocation for waste management:
    - WP13 Former McKecknie's, Middlemeore Lane / Dumblederry Lane, Aldridge - as the site owner is unwilling to support the inclusion of a waste designation and there is not a requirement for the Council to insist upon it
  - Amend several sites
    - WS11 Holland Industrial Park, Darlaston – adjacent to Darlaston Brook and River Tame, where the Environment Agency requires an 8m easement.

- WS11 Holland Industrial Park, Darlaston – adjacent to Darlaston Brook and River Tame, where the Environment Agency requires an 8m easement.
  - WP17 Axxcess 10 East, Bentley Road, Darlaston - – refer to the site being within Flood Zones 2 and 3 and where the Environment Agency requires an 8m easement
  - WS9 Biffa Westgate Aldridge – amend the figure for the throughput of waste
  - WS10 Highfields South Landfill - amend the figure for the throughput of waste and amend the estimated remaining life of the site to be 10 years.
- xiv) It is proposed to strengthen the approach in Policy W3 seeking to ensure that fire risks at waste management sites are properly addressed.
- xv) In respect of minerals it is proposed to amend the mapping on minerals safeguarding to provide separate maps for different minerals and to add an area for the safeguarding of a potential resource for fireclay north-west of Brownhills. The additional area at Brownhills will also require amendments to Policy M9 on Coal and Fireclay extraction, including to ensure that any future mineral extraction should address potential effects on the Special Area of Conservation on the Cannock Extension Canal.
- xvi) It is proposed to amend Policy M1 on the Safeguarding of Mineral Resources by:
- deleting the part of resources that takes the view that the extraction of minerals prior to development will rarely be feasible (but adding a reference in the supporting text); and
  - adding a buffer around areas of search for mineral extraction so that the future of mineral working might not be compromised.
- xvii) It is proposed to amend Policy M8 on Brick Clay Extraction to:
- strengthen the restoration requirements for the Highfields North site in the event that the current dormant permission might be implemented; and
  - Seek to link brick clay extraction elsewhere to the revocation of the Highfields North permission insofar as practicable and appropriate.
- xviii) It is proposed to amend, update and or correct the boundaries of various mineral working sites, and of mineral infrastructure sites to reflect the best available information.
- xix) On infrastructure, it is proposed to amend Policy T4 in relation to Transport Assessments to more clearly reflect national policy in considering sustainable modes of transport, and a cost-effective approach to off-site mitigation measures.

## **(b) Walsall Town Centre Area Action Plan**

- i) In response to concerns from the land owner additional text has been proposed for Policy AAPB2: Social Enterprise Zone to allow for greater flexibility in regards to the use of listed buildings for housing within the social enterprise zone.
- ii) Additional text has been proposed for Policy AAPB3: Town Centre Employment Land to clarify that sites which are allocated as 'consider for release employment land' also have allocations for centre uses, for example as an opportunity for office development.
- iii) An additional part has been proposed to Policy AAPLE1: New Leisure Developments to ensure better integration of leisure uses in the centre.
- iv) In response to representations made by the Environment Agency additional text has been proposed to Policy AAPLE4: Walsall Canal and Policy AAPINV4: Walsall Waterfront to include references to design and landscaping along with a cross reference to the environmental infrastructure policy.
- v) As a result on on-going discussions with Transport for West Midlands (TfWM) (formally Centro) around bus capacity in the town centre a modification has been proposed to Policy AAPT3: Public Transport to include references to improvements in how the buses operate at St Paul's bus station. The AAP Policies Map has also been amended to show St Paul's as an Opportunity for public transport investment. In addition, text has been added to the policy to ensure that improvements are made to better link all of the public transport interchanges in the town centre.
- vi) The Council has been progressing work on developing junction improvement schemes to increase the capacity of the town centre ring road. As a result of this work modifications are proposed to Policy AAPT4: Road Improvements and the policy justification to allow for the Council to seek S106 monies from developments on the town centre ring road or development that will result in significant traffic being directed to the ring road in order to undertake the identified improvements. A table has been included within the policy justification to provide a summary of the ring road improvements schemes. The AAP Policies Map has also been updated to remove any ring road improvements that are no longer proposed as a result of the more recent evidence.
- vii) A further modification has been proposed to Policy AAPT4: Road Improvements in response to consultation representations from the West Midlands Integrated Transport Authority to allow for highway improvements needed for enhancement to public transport.
- viii) A small modification has been proposed to Policy AAPT5: Car Parking to ensure that any schemes proposing any form of dedicated car parking provide justification and not just short stay.

- ix) A modification has been proposed to Policy AAPINV4: Walsall Waterfront to remove reference to site as suitable for residential only when it is allocated on the Policies Map and elsewhere in the plan as an opportunity for mixed town centre uses.
- x) Amendments have been proposed to AAPINV7: Addressing Potential Site Constraints Part f) Minerals Safeguarding Area and the policy justification to make the AAP policy consistent with proposed modifications to SAD Policy M1. This has also involved a proposed modification to the AAP Policies Map to expand the Minerals Safeguarding Area.

**(c) Community Infrastructure Levy Charging Schedule**

- i) At the time of writing detailed discussions are continuing with the Council's consultants. These might lead to additional modifications, possibly including in respect of the treatment of discount foodstores.
  - ii) It is proposed to clarify the different size bands for the application of CIL to housing development: 1 to 14 units, 15-40 units, more than 40 units.
  - iii) It is proposed to insert text to explain that S106 obligations would be the mechanism to provide for mitigation in respect of potential impacts on European Sites (which would include Cannock Chase SAC).
  - iv) It is proposed to add some schemes for town centre linkages, public realm and highway improvements (for which the necessary details are available) to the Regulation 123 List – as projects that are planned to be funded by CIL.
- 3.10 As can be seen from Appendix B, the Pre-Submission Modifications are lengthy but in most cases they comprise detailed changes relating to a limited number of issues.
- 3.11 Several of the proposed Modifications relate to amendments to the Policies Maps for the SAD and/or the CIL. Revised Maps will form part of the consultation. Also the consultation on will be supported by the publication of a revised assessment under the Habitats Regulations and a revised Sustainability Appraisal. The opportunity will also be taken to ensure that all of the most up-to-date relevant evidence is as complete as possible.
- 3.12 The relatively limited range of issues involved is mainly to address matters raised by parties already involved in the plan-making process (although they do not mean it is proposed to accept all of the points made in the representations). In these circumstances, it is considered that the consultation can consist of advertising the proposed modifications, making them available in libraries and writing to all of those who have expressed an interest in the plans. Meetings can be organised if requested and the consultation would, of course, be promoted in the press and social media. It is also considered that the consultation can be for the statutory minimum

period of 6 weeks, partly in view of the importance of maintaining a tight timetable for progressing the plans. As the documents involved should be simple to produce and distribute, the consultation should be able to start within 2 weeks of the decision by Cabinet.

### The Programme for Preparing the Plans

- 3.13 There is a statutory requirement for the Council to publish a Local Development Scheme (LDS) with the programme for producing Local Plan Documents. In September 2014 Cabinet approved a report that reviewed the LDS. This provided the proposed timetable for the SAD and APP (with the CIL work to be progressed in parallel). The programme is set out on the next page, with actual performance against the programme (in italics) and the present position (in bold).
- 3.14 It can be seen that the need for an unavoidable additional round of consultation means that the preparation of the plans will take longer than previously programmed. However, it is increasingly important that the SAD and AAP are progressed as speedily as possible.
- i. At the Core Strategy examination the Black Country authorities committed themselves to a review of their strategy, to start in 2016. There is an expectation, including on the part of the other Black Country authorities, other local authorities and the development industry that will be done.
  - ii. Without plans in place to show the Core Strategy's approach to regeneration is deliverable, there could be increased pressure for arguments for alternatives to regeneration and these could have consequences for industrial land and for the Green Belt.
  - iii. The Government's approach to incentivising plan-making could lead in future to it 'abating' the Council's New Homes Bonus if Walsall is not considered to have up-to-date plans.
- 3.15 In addition, the Government's promotion of CIL has involved restrictions (from April 2015) on the ability to pool s106 monies, whilst as time passes potential CIL receipts are being foregone.
- 3.16 There is a legal requirement for the Council's plans to be prepared in accordance with the LDS and, therefore, it will be necessary to ensure that the LDS is up-to-date. It is proposed to bring a report to a future meeting of Cabinet (in September or October) to seek agreement to a revised LDS, which will also include a commitment to an initial programme for the review of the Black Country Core Strategy. In the meantime, it is proposed to publish the programme for the SAD, AAP and CIL (as set out above) on the Council's website.



Local Development Scheme PROGRAMME SUMMARY –  
2014-2016 (2017)

**Preparation of Site Allocation Document and Walsall Town Centre Area Action Plan**

<u>Issues and Options</u>	
Issues and Options Reports Public Consultation	22nd April - 3rd June 2013 - 6 weeks consultation
<u>Preferred Options</u>	
Cabinet	June/ July 2015 <i>Cabinet was 22<sup>nd</sup> July 2015.</i>
Preferred Options Reports Public Consultation (including draft plans)	August - September 2015 - 6 weeks consultation (may be extended) <i>The 'Preferred Options' Consultation was for 8 weeks beginning in September and ending in November 2015.</i>
<u>Towards Publication, Examination and Adoption</u>	
Cabinet (if no further evidence / consultation required)	January 2016 <i>Cabinet was 3<sup>rd</sup> February 2016</i>
Publication (final draft plan) Public Consultation	February 2016 - 6 weeks consultation <i>The consultation on the 'Publication Draft' Plans ran for 8 weeks beginning in March 2016 and ending in May 2016.</i>
Council Approval for Submission	June 2016 <b><i>It was reported to Cabinet in February 2016 that this might be in July. Now, this report is seeking agreement for an additional stage of consultation, on 'Pre-Submission Modifications', to start in August and to run for 6 weeks. This will mean that subsequent stages of the programme will have to be put back.</i></b>
Submission to Secretary of State	July 2016 <i>This will require approval of a meeting of the Council and is now likely to be in October 2016.</i>
Examination (by Planning Inspector)	Autumn 2016 <i>This is now likely to be at the end of 2016.</i>
Adoption (by Council)	End 2016 <i>This is now likely to be early in 2017.</i>

## **4. Council priorities**

- 4.1 The Local Plan provides the statutory framework within which the Council should make decisions about the use and development of land. The borough-wide SAD and Walsall Town Centre AAP are to enable this through policies that support the Council's priorities whilst taking forward the regeneration strategy of the Core Strategy. They will give direct support for the council's priorities (as set out in the Corporate Plan 2016 – 2020, and in the Draft Corporate Plan 'Reducing Inequalities; Maximising Potential' that was reported to Cabinet in June) by allocating land for development including housing (including affordable housing), for industry and business, including investment in the town centre, and by protecting the environment. By doing these things within a framework for sustainable development these plans should help to improve people's access to economic and other opportunities and contribute to their health and well-being. They should also help all of those who are concerned with the future use of land and premises to plan for the future.
- 4.2 The proposed introduction of the CIL regime should provide resources to help support new, improved and better-maintained infrastructure for a variety of purposes, including open space, transport, highways and an improved environment for the public. Because CIL (unlike s106 obligations) is not tied directly to particular development it provides some flexibility to respond to changing needs and priorities.
- 4.3 Besides meeting statutory and procedural requirements, consultation on the plans should accord with the council's commitments to openness, listening and involvement. Positive plans for the future of the borough also represent tangible commitments to leadership.

## **5. Risk management**

- 5.1 Failure to have an adopted Local Plan, based on sound evidence, could result in the borough having insufficient land to meet the need for housing, employment and other land uses that are necessary to meet the needs of residents and to support the economic and environmental well-being of the area. It could also result in development being placed in the wrong locations, leading to an inefficient use of resources, the loss of sites to meet local needs and to accommodate much-needed investment, traffic congestion, damage to the environment and other harm. Having a Local Plan in place is also essential to defend the Council's position in planning appeals and in justifying regeneration proposals and bids for resources.
- 5.2 The legal and procedural requirements for the preparation of the plans present potential risks. The Government's policy requirements mean plans have to be found 'sound' in that they should be:
- positively prepared (to meet the needs of the area);
  - justified (considered against reasonable alternatives and based on evidence);

- effective (deliverable); and
- consistent with national policy.

5.3 To mitigate the risks that might impede the adoption of the plans, it is important to meet the legal and procedural requirements and to ensure that policies and proposals across all of the issues relating to and/or addressed by the plans dealt with are well-considered and properly justified. Consultation is an important part of this.

5.4 There is an additional risk posed by the ongoing work in relation to the interpretation and application of the Habitats Regulations in respect of Cannock Chase SAC (referred to at 3.6d). If it were to become necessary for development in Walsall to contribute to the Cannock Chase SAC, there is potential for impact on both the SAD and the CIL, which would then require further reports to Cabinet.

## **6. Financial implications**

6.1 Preparing the plans entails costs, notably for evidence that the council has to have to justify the policies and proposals. This is especially, for issues that the council cannot fully examine itself or where it is important to show there has been an external expert assessment. At the previous 'Preferred Options' and 'Publication' stages the report to Cabinet referred to the commissioning of evidence, principally on complex issues concerning the viability and deliverability of development in Walsall and on the implications of the EU Habitats Directive and associated regulations.

6.2 Now, to respond to issues raised through the consultations and to respond to changing circumstances (including recent and proposed changes in legislation and Government policy) it is necessary to update some of the evidence and this involves some commissioning. This includes the evidence on the viability and deliverability of development proposals and for the charging of CIL and further advice, including legal advice on the application of the Habitats Regulations. The total cost for all of the additional work is estimated as being less than £25,000.

6.3 On the basis of experience at previous stages, the printing of the documents, for the 'Pre-Submission Modifications' consultation is estimated as likely to cost around £2,000.

6.4 The costs incurred so far, or due as a result of the current and proposed work have been / can be met from existing and ear-marked reserve budgets. In June 2011 Cabinet endorsed the use of parts of the monies from the Government's New Homes Bonus for the preparation of the plans and CIL charging schedule. Sufficient monies remain to progress the plans to the next stage (submission to the Secretary of State), unless a need arises for a very large commission to address a complex (but hitherto unforeseen) issue.

- 6.5 The Council has been awarded almost £6 million of New Homes Bonus for 2016-2017, and Government incentives for support for new development appear likely to continue in some form. In December 2015 the Government stated that it would be likely to take account of whether or not authorities have up to date Local Plans when assessing and rewarding (or sanctioning) authorities' planning performance.
- 6.6 Besides Government grants, support for new development will also be likely to generate Council Tax and Business Rates income. The introduction of a CIL regime has been estimated by the Council's consultants (DTZ, now Cushman & Wakefield) as potentially generating £4.5-£5.6 million up to 2026 for spending on the provision and maintenance of infrastructure. It is difficult to make a direct comparison with what might otherwise be collected through s106 obligations, because Government expects that resources for infrastructure will be gathered through CIL and it has tightened the rules on the collection and use of s106s (including, as of April 2015 with restrictions on the pooling of s106 contributions). For comparison, £309,000 was secured from s106 obligations in 2014-15. Some provision (on and off-site affordable housing, and site-specific infrastructure) will still be most appropriate for funding solely through s106s, but infrastructure funded through CIL cannot also benefit from contributions through s106.
- 6.7 Up-to-date Local Plans should also have financial (as well as other benefits), in enabling Development Management to function more efficiently, justifying the council's position at planning appeals and supporting bids for regeneration funding.

## **7. Legal implications**

- 7.1 Formal 'Local Plans' are the basis of the planning system. The Planning and Compulsory Purchase Act 2004 (Section 38(6)) requires that where a planning decision is to be made *"the determination must be made in accordance with the plan unless material considerations indicate otherwise"*. The Government strongly encourages authorities to have up-to-date plans, and the 2004 Act (as amended) requires that each authority should maintain a Local Development Scheme for plan preparation and that it should monitor the implementation of its plans.
- 7.2 Under the Town and Country Planning (Local Planning Regulations) 2012 (Regulation 5), any document that allocates sites for particular types of development has to be a local development document (otherwise known as a 'Local Plan'). This means the proposed documents will have to be prepared according to requirements set down in legislation (including the Planning and Compulsory Purchase Act 2004, the Planning Act 2008, related regulations, EU Directives especially on Strategic Environmental Assessment and on Habitats)<sup>1</sup> and Government Policy (particularly in the National Planning Policy

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<sup>1</sup> EU Directives and UK legislation deriving from the EU will continue to have effect unless or until rescinded, replaced or amended.

Framework). Any planning document for Walsall has also to be consistent with the Black Country Core Strategy.

- 7.3 The preparation of an Infrastructure Plan and Charging Schedule should follow the Community Infrastructure Levy Regulations 2010 and subsequent amendments. Besides setting out how a CIL regime should be introduced, these give strong incentive to operate CIL as they limit the ability to pool planning obligations ('s106s') in respect on any particular infrastructure project or type of infrastructure.
- 7.4 The preparation, content and delivery of plans and proposals has also to take account of potential impacts in terms of matters that are the subject of other legislation (such as on equalities, on Listed Buildings and Conservation Areas or on the environment and nature conservation).
- 7.5 The documents are being prepared in accordance with the approach to consultation as set out in legislation and national policy, as well as in the Council's Statement of Community Involvement. The work on the plans requires continuing positive engagement with nearby local authorities and with various statutory bodies under the 'Duty to Cooperate' introduced by the Localism Act 2011.
- 7.6 The need to ensure the soundness of the plans means that it is important to follow the statutory and policy requirements. Besides prescribing the processes to be followed generally, these can also raise specific issues that have to be addressed. Now, the need to do further work in relation to the Habitats Regulations involves amendments to the Strategic Environmental Assessment (included with the Sustainability Appraisal), which triggers a requirement for consultation under the Environmental Assessment of Plans and Programmes Regulations 2004. Such a requirement gives the opportunity for Pre-Submission Modifications to the plans, an approach that is supported by Government guidance.
- 7.7 As the legislation did not provide for it, the Government made a policy decision through the NPPF in 2012 that those taking planning decisions may give weight to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and their degree of consistency with national policies. Now, officers consider that weight can be given to those policies in the SAD and AAP where they are not the subject of objections or of Proposed Main Modifications. The weight in each case will depend on the particular circumstances.

## **8. Property implications**

- 8.1 One of the aims of the SAD and AAP will be to ensure land is allocated to meet the future land and property requirements of the Council and its partners in the most appropriate locations and planning for new homes and jobs (etc.) will help with this. Within the framework of planning policy Council and other assets have been taken into account where new facilities might be needed,

existing provision improved or land or premises might be surplus to requirements.

## **9. Health and wellbeing implications**

- 9.1 The objectives of the SAD and AAP include to ensure that the provision and siting of new developments contributes to the health and well-being of residents of the borough. For example the location of development should help avoid exposure to pollution as well as providing opportunities to promote access by walking and cycling. Also, providing for the housing and economic needs of residents should have health benefits and planning to meet needs for housing and other activities should help planning for health and leisure facilities. Preparation of the SAD and AAP includes the carrying out of an integrated Sustainability Appraisal, Equality Impact Assessment and Health Impact Assessment. Monies collected through CIL might be available to support health-related initiatives, perhaps principally in relation to open space and leisure provision.
- 9.2 The Walsall Health and Well-being Board is included in the consultations on the plans and it responded very positively at the Preferred Options stage.

## **10. Staffing implications**

- 10.1 The majority of the work is being carried out by officers in the Planning Policy Team with others in the Economy and Environment Directorate, notably Development and Delivery, together with other officers on a range of matters including public health, education, community facilities, highways and other infrastructure. Work on the plans has also benefitted from work undertaken by partners and from inputs by public bodies, such as in respect of water and flood risk and environmental issues. Some independent expert advice has been commissioned, notably on investment interest and the land and property market in the borough and in Walsall town centre, minerals planning issues, and the implications for the EU Habitats Directive.

## **11. Equality implications**

- 11.1 Preparation of the SAD and AAP includes the carrying out of an integrated Sustainability Appraisal, Equality Impact Assessment and Health Impact Assessment. The objectives of the SAD and AAP include ensuring that jobs, homes and services are provided for and accessible to all residents of the borough including groups such as gypsies and travellers.

## **12. Consultation**

- 12.1 As the plans cover a wide range of issues and have to be prepared through processes that require evidence and consultation. There has been a great

deal of consultation within the council and with partners in the work done so far. Presentations have been made to Members of the Council and discussions / meetings held with Members and groups of Members. Among council officers, the Planning Policy team has worked with especially closely with Development and Delivery and with Development Management, Highways, Transportation, Pollution Control, the Employment Growth team and Housing. More widely there has been work with Clean and Green Services, Leisure and Community Health, Waste Management, and Communities and Public Protection.

- 12.2 All of those identified above as involved in the work on the plans, plus Finance and Legal Services, have been given the opportunity to comment on this report. There has also been an internal consultation on the draft of the Schedule of Representations Received and Council Responses and on the Proposed Modifications to the plans. A 'drop-in' event for all Members of the Council has been arranged for 27<sup>th</sup> July between 4pm and 7pm in Conference Room 1. It is intended to keep Members, and services within the council, involved in the preparation of the plans as the work moves forward. If necessary they can participate in the public consultation (as well as residents, businesses, landowners, statutory bodies, etc.).
- 12.3 Previous consultations have involved meetings and exhibitions around the borough and each stage has captured contact details for interested parties and members of the public so that each stage could seek to involve more and more people. Now, as can be seen from Appendix B, consultation on pre-submission modifications would involve the publication of a set of detailed changes to the draft plans, focussed on specific issues. As almost all of these issues would have been raised through previous consultations and the consultation would include writing to all of the interested parties to advise them of the proposed changes, it is not considered that specific events or exhibitions will be necessary. If, however, particular groups or areas would like to have meetings with officers then these can be arranged.

## **Background papers**

All published / to be published when the consultation begins – see the Council's website, especially:

[http://cms.walsall.gov.uk/index/environment/planning/planning\\_policy/planning\\_2026.htm](http://cms.walsall.gov.uk/index/environment/planning/planning_policy/planning_2026.htm)

[http://cms.walsall.gov.uk/index/environment/planning/planning\\_policy/community\\_infrastructure Levy.htm](http://cms.walsall.gov.uk/index/environment/planning/planning_policy/community_infrastructure Levy.htm)

Existing Documents, including

1. Black Country Core Strategy (BCCS)
2. Black Country Core Strategy Inspectors' Report
3. 'Saved' Policies of Walsall's Unitary Development Plan (UDP)
4. Walsall Council Statement of Community Involvement
5. National Planning Policy Framework & National Planning Practice Guidance

Local Plan Documents and Evidence from the earlier stages of consultation ('Issues and Options', 'Preferred Options' and 'Publication' for the SAD and AAP, and 'Preliminary Draft Charging Schedule' and 'Draft Charging Schedule' for CIL) – as provided on the Council's website.

Local Plan and CIL Documents for the Proposed Consultations

6. Proposed Modifications, Minor Modifications and Editing for Walsall's SAD
7. Proposed Modifications, Minor Modifications and Editing for Walsall's Town Centre AAP
8. Proposed Modifications, Minor Modifications and Editing for Walsall's CIL
9. Sustainability Appraisal (revised)
10. Habitats Regulations Assessment (revised)
11. Walsall's SAD Publication Consultation – Representations and Council Responses
12. Walsall Town Centre AAP Publication Consultation – Representations and Council Responses
13. Walsall's Draft CIL Charging Schedule Consultation - Representations and Council Responses
14. Statement on SAD and AAP Publication and CIL Consultation

Updated Evidence, including

15. Updated Viability and Delivery Study / Studies
16. Walsall Town Centre Traffic and Parking Paper
17. Draft Delivery Plan (for the SAD & AAP)

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Simon Neilson  
Executive Director  
Economy and Environment

27 July 2016



Councillor Jeavons  
Deputy Leader and  
Portfolio Holder Regeneration

27 July 2016





**Appendix A**  
**'Publication Consultation' - Schedules of Representations and Proposed Council Responses**

These schedules are to be published at the same time as the consultation on Proposed Pre-Submission Modifications to the plans.

- i) Walsall's SAD Publication Consultation – Representations and Council Responses**
- ii) Walsall Town Centre AAP Publication Consultation – Representations and Council Responses**
- iii) Walsall's Draft CIL Charging Schedule Consultation - Representations and Council Responses**

## **Appendix B**

### **Schedules of Proposed Main Modifications, Minor Modifications and Editing**

Cabinet is asked to approve the proposed main modifications and minor modifications for 6 weeks' consultation. It is proposed that where they have been identified edits, corrections, reformatting etc. (that do not affect the meaning, interpretation or application of the policies and other text) should also be published for information, although such changes will also continue to be identified and addressed throughout the plan-making and examination processes for the plans.

#### **i) Proposed Main Modifications, Minor Modifications and Editing for Walsall's SAD**

#### **ii) Proposed Main Modifications, Minor Modifications and Editing for Walsall's Town Centre AAP**

#### **iii) Proposed Main Modifications, Minor Modifications and Editing for Walsall's CIL**

Where it is proposed that policies should receive substantial amendment (as in respect of Great Barr Hall, for example) or new maps / figures are to be introduced, the relevant proposed modifications are attached to the Schedules.

The Policies Maps for the SAD and the AAP, as proposed to be changed to incorporate the Proposed Modifications, are also attached.