

## **Council – 7th January 2019**

### **Adoption of the Walsall Site Allocation Document (SAD) and Walsall Town Centre Area Action Plan (AAP)**

**Service:** Regeneration and Development

**Wards:** All

#### **1. Summary**

- 1.1 This report seeks approval for the adoption of the Walsall Site Allocation Document (SAD) and Walsall Town Centre Area Action Plan (AAP); Appendix A and B respectively of this report.
- 1.2 The SAD and the AAP will be parts of the statutory development plan and, once adopted, will form important parts of the legal basis for planning decisions, including for the determination of planning applications. In guiding development within the Borough of Walsall, the SAD and AAP should also have important roles in shaping the Council's priorities.
- 1.3 The recommendation to adopt the SAD and the AAP follows their examination by a Planning Inspector appointed by the Secretary of State. The Inspector has found the SAD and the AAP to be 'sound' subject to a number of Main Modifications that the Council is required to make. The Main Modifications are very similar to those agreed for consultation by Cabinet in December 2017 and they raise no new issues for this authority. The Main Modifications (with other minor changes) are included in the versions of the SAD and the AAP at Appendix A and B and recommended for adoption.

#### **2. Recommendations**

- 2.1 That Council adopts the Walsall Site Allocation Document (SAD) and the Walsall Town Centre Area Action Plan (AAP) (as modified) at Appendix A and B respectively, in accordance with Section 23 of the Planning and Compulsory Purchase Act 2004, and in doing so Council recognises that the policies and proposals of the SAD and AAP will supersede various saved Policies of Walsall's Unitary Development Plan (as well as associated Supplementary Planning Document(s)).
- 2.3 That Council authorises the publication of Adoption Statements and the final Sustainability Appraisal reports following the decisions of Council.
- 2.4 That Council delegates authority to the Executive Director Economy and Environment, in consultation with the Portfolio Holder for Regeneration, to make further minor modifications to the SAD and AAP prior to their final publication, provided these are edits in respect of such matters as referencing, formatting and typographical errors, and these do not include any material changes to policy wording that might affect the soundness of the plans.

### **3. Report detail**

- 3.1 In June 2011 Walsall's Cabinet approved the preparation of:
- 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); and
  - b) An Area Action Plan (AAP) for Walsall Town Centre, to allocate sites for development and to propose improvements to support the town centre.
- 3.2 The process for making statutory development plans is set out in 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') and in The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). 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.
- 3.3 The consultations undertaken by the Council have been in several stages.
- a) In 2011 and 2013-2014 the Council undertook 'call for sites' exercises to see who might wish to propose sites for development.
  - b) 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 were from the public, expressing opposition to ideas for sites that had been put forward by landowners / developers in response to the 'call for sites'.
  - c) After careful consideration of the representations received plus the commissioning and consideration of evidence, the Council set out how it had identified 'Preferred Options' and consulted on Draft Plans for the SAD and AAP. That generated around 1,200 written representations (plus several petitions) the vast majority of which expressed strong opposition to proposals the 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 SAD or AAP. Besides a detailed exercise to evaluate the potential to accommodate Gypsies and Travellers, only relatively minor changes to the SAD or AAP were considered necessary to respond to the points raised.
  - d) This was followed by consultation on the 'Publication' Drafts of the SAD and the AAP. This took place in March – May 2016. The consultation involved correspondence to about 2,500 contacts (including statutory bodies and various economic, social and/or environmental interests as well as members of the public), 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.

- e) In response to the Publication representations, Cabinet in March 2017 agreed to consult on proposed Pre-Submission Modifications to the draft SAD and AAP documents. Where appropriate modifications were proposed in response to the consultation representations made, other modifications were also proposed to make the documents more accessible, to respond to changes in circumstances and Government policy, as well as for clarity. Representations were received from a total of 36 parties on the SAD (raising around 130 separate points), and from 6 parties on the AAP (on 11 separate points).
- 3.4 Following the agreement of Full Council in April, in June 2017 the SAD and AAP were submitted to the Secretary of State for independent examination by a Planning Inspector. The Inspector's role was to assess whether the plans had been prepared in accordance with legal and procedural requirements, with the Duty to Co-operate, and whether they are 'sound' in terms of the tests imposed by Government (positively prepared, justified, effective and consistent with national policy). The examination hearing sessions took place during September and October 2017.
- 3.5 As part of the examination process the Inspector identified a number of Main Modifications that were considered necessary to make the plans sound. Following agreement by Cabinet in December 2017, consultation was undertaken on the Main Modifications (and also on Minor Modifications put forward by the Council to update factual information and clarify the text) in February - April 2018. The Inspector then considered all representations made in response to this consultation, together with those made at previous stages, in order to present his recommendations in a report.
- 3.6 The Inspector's Report for the AAP was received in August 2018 and the SAD Report was received in November 2018. Both reports and their accompanying schedules of Main Modifications have been published by the Council. The SAD and AAP have been found by the Inspector to be 'sound' subject to the inclusion of the Main Modifications proposed by the Inspector. Council is now recommended that the SAD and the AAP should be formally adopted.
- 3.7 The versions of the SAD and AAP recommended for adoption include the Main Modifications put forward by the Inspector. The Inspector has concluded that the plans would not be sound without these Main Modifications and the legislation does not provide for the Council to challenge any Main Modifications, except through the legal process of judicial review. However, the Main Modifications recommended by the Inspector resemble very closely those agreed by Cabinet in December 2017. The Main Modifications raise no new issues for this authority, although some of the issues discussed were controversial with consultees.
- 3.8 As the Inspector's Reports on the SAD and on the AAP were concerned primarily with explaining the needs for Main Modifications, they do not raise new or contentious issues of which the Council has been previously unaware. In general terms, the endorsement of the plans (albeit with Main Modifications) as 'sound' is positive for the Council and should be positive for the borough. For the Town Centre the Inspector's Report was primarily concerned to note the importance of

“certainty and confidence”. Two issues arising from the Inspector’s Report on the SAD are most worthy of note.

- a) The Inspector examined the SAD as a ‘daughter’ document to the adopted Black Country Core Strategy (BCCS), but was fully aware of the BCCS Review (‘The Black Country Plan’). From various references to the fact of the Review it can easily be inferred that the Inspector is clear the BCCS Review should be progressed.
- b) In respect of provision for Gypsies, Travellers and travelling showpeople the Inspector has recommended (and Cabinet agreed to consult on) Main Modifications deleting proposals for Gypsy and Traveller sites in the Green Belt and removing references to the possibilities for some pitches or plots to be provided on certain large housing sites. As set out in paragraph 19 of the Inspector’s Report this means:

*“... the SAD would fail to provide for the full need of the Gypsies and Travellers and Travelling Showpeople over the period of the plan. Therefore, it will be necessary to implement [commence] an early review of the plan (within 18 months of adoption) in relation to provision for Gypsies and Travellers and Travelling Showpeople. The review could take the form of a topic-specific development plan document or be undertaken as part of the ongoing review of the BCCS. It should ensure the allocation of sites as necessary to meet an up-to-date assessment of the projected needs for sites for Gypsies and Travellers and for Travelling Showpeople. Therefore, modification to the explanatory text is necessary to reflect the commitment to an early review for clarity and effectiveness ....”*

- 3.9 Besides Main Modifications, the Council also consulted upon Minor Modifications (changes that did not affect the soundness of the plan because they were minor and / or factual, clarifications, references, typographical corrections etc.). There were no objections to these and they have been included in the copies of the plans recommended for adoption. Other minor changes, updates and corrections have been identified by officers for inclusion in the plan. The process of checking is still continuing albeit now in terms of formatting and typographical issues. For this reason it is recommended that the Executive Director Economy and Environment is authorised to agree minor changes and editing of the text for publication, in liaison with the Portfolio Holder (primarily in case there are preferences in respect of formatting) and not including any material changes to policy wording or that might affect the soundness of the plan.
- 3.10 Adoption of the SAD and AAP will mean they form part of the statutory Development Plan for the Borough, together with the existing BCCS, and the remaining ‘saved’ policies of Walsall’s Unitary Development Plan. Adoption of the SAD and AAP will result in some UDP policies being deleted or replaced. A summary of the UDP policies that are proposed to be replaced is provided as an appendix to each of the plans. The AAP also explains that it will replace the ‘Walsall Waterfront’ Supplementary Planning Document.
- 3.11 As described elsewhere in the report, the preparation of the SAD and AAP has involved several stages, including member approvals, public consultation and formal examination. All of these things have been necessary for important reasons.

- a) The adopted plans will form part of the legal basis for making planning decisions (including decisions on planning applications) with determinations legally required to be in accordance with the plans unless material considerations indicate otherwise.
  - b) Statutory plans provide the only mechanism for formally allocating sites for particular types of development. In doing this the plans provide sites for appropriate types of development in sustainable locations, protecting land for uses that are important for the future of the borough (such as for industry) and protecting environmental assets and respecting constraints.
  - c) In allocating sites for development, the SAD and the AAP make important contributions to meeting needs already identified in the current BCCS, and the allocations made help to support the continuing focus on urban regeneration. The plans aim to maximise the commitment to brownfield urban sites so that they can meet as much as possible of the projected needs being explored through the review of the BCCS (The Black Country Plan).
  - d) Besides building on Council priorities, the SAD and the AAP will also help to inform them for the future and the status of the formal Local Plan will help to project and apply those priorities.
- 3.12 For Walsall Town Centre the AAP will provide a solid basis for the ‘Town Centre masterplan’ work that is currently being undertaken. The policies in the AAP provide a regeneration strategy for the Town Centre and they have been developed in a way that provides flexibility to account for the dynamic nature of centres. The masterplan should provide the mechanism to enable and commit the Council to implementing improvement, investment and development proposals.

#### **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 will give direct support for the Council’s priorities (as set out in the Corporate Plan 2018 – 2021) by allocating land for housing to meet all our community’s needs, land 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 meet the Council’s priorities of ensuring “*economic growth for all people, communities and businesses*” and creating communities that are “*prospering and resilient with all housing needs met in safe and healthy places that build a strong sense of belonging and cohesion*”. This will in turn contribute to the people of Walsall having “*increased independence, improved health and can positively contribute to their communities*”.
- 4.2 Besides meeting statutory and procedural requirements, consultation on the plans has been in 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.
- 5.2 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.
- 5.3 The Government's National Planning Policy Framework (NPPF – revised in July 2018, see paragraph 15) says "*The planning system should be genuinely planned.*" The importance Government places on Local Plan preparation is reflected in the Secretary of State having intervention powers where a local planning authority is considered to be failing. In England 15 councils have been identified by Government and 3 of them were visited by Government officials. None of the authorities was close to the Black Country, where the main emphasis is now likely to be on progressing the BCCS Review.

## **6. Financial implications**

- 6.1 No new implications arise from the recommendations of this report. The costs of preparing the plans and having them examined are being met from existing and ear-marked reserve budgets.
- 6.2 There are potential financial risks that would arise if the Council failed to have an up to date development plan. 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. In addition to Government grants, support for new development will also be likely to generate Council Tax and Business Rates income.
- 6.3 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*".
- 7.2 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. The Neighbourhood Planning Act 2017 (Section 8(1)) states that “*Each local planning authority must identify the strategic priorities for the development and use of land in the authority’s area*” and “*Policies to address those priorities must be set out in the local planning authority’s development plan documents*”. A recent change to The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) requires authorities to review their Local Plans at least every 5 years to see whether they are up-to-date or might need changing.

- 7.3 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, The Environmental Assessment of Plans and Programmes Regulations 2004, The Conservation of Habitats and Species Regulations 2017 and Government policy (particularly in the National Planning Policy Framework). Any planning document for Walsall has also to be consistent with the adopted Black Country Core Strategy.
- 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 have been 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 As with preparation, the adoption process for the plans is prescribed by legislation. If the recommendations are approved by Council, an adoption statement and the final sustainability appraisal report are required to be issued alongside the finalised Plans at the earliest convenience in accordance with regulations 17 and 26 of the Town and Country Planning (Local Planning) Regulations 2012 (as amended). The statement for each plan is to be published on the Council’s website and sent to all interested parties as well as the Secretary of State for their information.
- 7.7 Once the Council publishes notice of its decision to adopt a plan, The Planning and Compulsory Purchase Act 2004 (section 113) provides a statutory 6-week period for challenge by means of judicial review. Any such challenge should focus on the legal process and correctness of the plan as opposed to matters of soundness. Unless such a challenge were to be successful, it would have no impact on the weight to be afforded to the plan in question.

## **8. Property implications**

- 8.1 One of the aims of the SAD and AAP is to allocate to meet the future land and property requirements of the Council and its partners in the most appropriate

locations. Within the framework of planning policy, Council and other assets have been taken into account in terms of where new facilities might be needed, how existing provision could be improved or land / premises that might be surplus to requirements. Development proposals for Council properties will be subject to the relevant policies and proposals in the SAD and AAP.

## **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.
- 9.2 The Walsall Health and Well-being Board was included in the consultations on the plans and responded very positively at earlier stages.

## **10. Staffing implications**

- 10.1 The majority of the work on producing the plans was carried out by officers in the Regeneration and Development Service and other officers in the Economy and Environment Directorate. Preparation of the plans has been led by the Planning Policy team who have engaged across the Council on a range of matters, including public health, education, open space and community facilities, highways and other infrastructure and the environment
- 10.2 For specialist advice and objective evidence the plan-making process has needed inputs from outside the Council. Other public bodies have provided advice in respect of issues such as transport, water and flood risk and environmental issues. Some independent expert advice was 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 of The Conservation of Habitats and Species Regulations 2017.

## **11. Equality implications**

- 11.1 Preparation of the SAD and AAP has included 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 insofar as possible for groups such as gypsies and travellers.



## **12. Consultation**

- 12.1 There has been extensive consultation within the Council and with partners in the work done. Presentations have been made to Members of the Council and discussions / meetings held with Members and groups of Members. As referred to above, officers preparing the SAD and AAP have worked closely with other officers from within the Economy and Environment Directorate and more widely. Officers have also worked with other public bodies, both under the Duty to Cooperate and through consultations.
- 12.2 Consultation during the several stages of preparation of the plans (see paragraph 3.3) has involved letters and emails to interested parties and the public (over 2,500 individuals have been on the consultation database), 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.
- 12.3 No further consultation is required on the plans. However, all parties who have expressed an interest will be advised of the adoption of the plans.

## **Background papers**

Appendices to this report:

1. Walsall Site Allocation Document (January 2019)
2. Walsall Local Plan Policies Map (January 2019)
3. Walsall Town Centre Area Action Plan (January 2019)
4. Walsall Town Centre Area Action Plan Inset of the Local Plan Policies Map (January 2019)

All Background papers are published -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)

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
6. Walsall Waterfront Supplementary Planning Document (November 2006)

Local Plan Documents and Evidence from the examination including earlier stages of consultation ('Issues and Options', 'Preferred Options' and 'Publication' for the SAD and AAP) – as provided on the Council's website. Including

7. SAD Inspector's Report and Main Modifications
8. AAP Inspector's Report and Main Modifications
9. Sustainability Appraisal (revised)
10. Habitats Regulations Assessment (revised)
11. SAD and AAP Technical Appendices – the opportunity is being taken to pull together and collate the purely factual appendices published previously.

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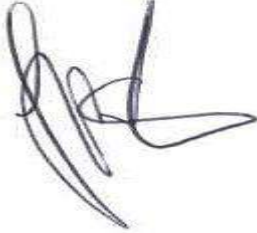
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A handwritten signature in blue ink, appearing to read 'S. Neilson', with a long horizontal stroke extending to the right.

Simon Neilson  
Executive Director  
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21 December 2018