

Council – 11 September 2006

Black Country Joint Core Strategy

Portfolio: Councillor Adrian Andrew, Regeneration and Enterprise

Service: Regeneration

Wards: All

Summary of report

This report seeks Council approval for the Core Strategy element of the council's Local Development Framework (LDF), to be prepared jointly with the boroughs of Dudley, and Sandwell and the City of Wolverhampton.

The LDF will, on a stage by stage basis, replace the Walsall Unitary Development Plan (UDP) as the development plan for the borough, and the Core Strategy will be the document that will provide a framework of strategic planning policies. Preparation of the document on a joint basis will mean that a common set of strategic policies should be applied consistently across the whole of the Black Country on a basis that will have been agreed by all four of the local authorities. This approach was agreed informally by the Leaders of all four Councils in January 2005 and is reflected in the first phase revision to the Regional Spatial Strategy emerging from the Black Country Study. To co-ordinate joint working on the Black Country Study a Joint Advisory Group (JAG), comprising the relevant portfolio-holders from the individual authorities (including the Regeneration and Enterprise portfolio-holder from Walsall Council) has been established and it has been proposed that this should continue to co-ordinate work on the joint Core Strategy.

Revisions to the Local Development Scheme (LDS), the project plan that sets out the documents intended to make up the council's LDF, were reported to Cabinet on 14 June. A copy of the Cabinet Report is attached as Appendix 1. Cabinet agreed the recommendations, including *"That officers be authorised to work towards the production of a joint Core Strategy for the Black Country, with Dudley, Sandwell and Wolverhampton."* Following this, and similar resolutions by the other council's Cabinets, officers from the four local authorities and the Black Country Consortium and Government Office have been in discussion to arrange to proceed on a joint basis and to agree the necessary work.

Recently, however, Government Offices have recently advised local planning authorities that in fact an agreement to prepare a Development Plan Document

under the reformed planning system cannot, under The Local Authorities (Functions and Responsibilities)(Amendment)(No.2)(England) Regulations 2005, be the responsibility of Cabinet. Notwithstanding earlier 'agreements', the authority of Council is required for Walsall and for the other authorities.

The need for Council authority for joint working in this case has been confirmed by the council's solicitor, who has also provided advice to the effect that:

1. Future stages of work on the Joint Core Strategy and other parts of the LDF, will have to be taken through the individual authorities' Cabinets or Councils as required in the relevant regulations, and that whilst JAG can still play a useful co-ordinating role, there is no need or provision for the councils to have to establish a formal Joint Committee; but
2. At the outset it would be useful to have a formal agreement between the four local authorities to make clear:
 - The agreement of the authorities to prepare the joint Core Strategy (with provision to prepare other joint DPDs in future, subject to the agreement of the four Councils)
 - How the work would be organised, so that responsibilities would be identified
 - The mechanisms through which the councils will work (e.g. through regular officer meetings and reports to JAG, before agreements are sought from the individual Cabinets or Councils as necessary)
 - How disagreements would be resolved (at present it is envisaged that this should be through consensus, but the legal position implies that Cabinet or Council resolutions would be required).

Recommendations

Council is recommended:

1. To agree that the Core Strategy should be prepared on a joint basis between Walsall, Dudley, Sandwell and Wolverhampton Councils, to support the delivery of the Black Country Study.
2. That joint working on the preparation of the joint Core Strategy (and any other joint DPDs) will be on the basis of a legal agreement between Walsall and Dudley, Sandwell and Wolverhampton Councils, and that this agreement should be delegated for the approval of the portfolio holder for Regeneration and Enterprise and the Executive Director for Regeneration and signed by the Executive Director for Regeneration on behalf of the council.

Resource and legal considerations

The report to Cabinet on 14 June 2006 advised generally on the issues. Now, initial discussions between the four Black Country councils has identified that, in addition to the analyses for the Black Country Study / Regional Spatial Strategy revision, there is a need for additional work to ensure that the joint Core Strategy will meet the Government's requirements for a 'sound evidence base'. Recently Lichfield Council's Core Strategy was found to be unsound because of a lack of evidence, with the result that their Core Strategy has to be started again.

The cost of the additional work are being finalised, but it is apparent that the costs of the technical work required during the current financial year are likely to be in the order of £80,000 for each of the four authorities (although the costs have been reduced because of the ability to share work). As far as Walsall is concerned, the requirements can be met from existing budgets, including through the use of Planning Delivery Grant.

In future years there will also be costs for further work, printing and consultations, as well as a public examination into the joint Core Strategy.

The legal advice received confirms the requirement for Council authority to prepare the Core Strategy on a joint basis as well as the need to ensure proper accountability and the safeguarding of the resources required.

Citizen impact

The joint Core Strategy will ultimately impact upon citizens throughout the Borough through its influence on future planning decisions.

Community safety

There are no implications for community safety directly arising from this report. The joint Core Strategy will be likely to include policies dealing with community safety, as does the present UDP.

Environmental impact

Sustainable development will be a key aim of the joint Core Strategy, as it is with the current UDP, and the procedures for the preparation of the joint Core Strategy involve stringent requirements for Sustainability Appraisal / Strategic Environmental Assessment.

Performance and risk management issues

The fact that a procedural issue has to be dealt with illustrates the complexities of the new development planning regime. At the same time there are legal and procedural requirements to comply with this regime.

In advance of council resolutions from all four Black Country boroughs there is presently not the authority for the making of an agreement to prepare the joint Core Strategy. There are potential risks until agreements have been secured from all four councils, and the last of the council meetings (Sandwell) will not be until 31st October.

The situation will have some effect on the timetable for the Joint Core Strategy as set out in each of the Black Country boroughs' Local Development Schemes. The significance of the effect is currently under review. However, the LDSs have to be approved by the Secretary of State and, even though it would result from the legal position, Government Office has indicated that it is resistant to delays.

Performance against the programme set out in the LDS will be taken into account by Government in Best Value assessments and in the future allocation of Planning Delivery Grant, as well as on the ability of the council to save policies from the existing UDP until they are replaced by the joint Core Strategy and subsequent parts of the LDF.

It will therefore be important that the programme for the production of the joint Core Strategy will be realistic and be maintained. This will require not only the resolution of the present position, but the support of adequate resources in the longer term.

Equality implications

The preparation of the joint Core Strategy will need to be as open and inclusive as possible, to ensure that the needs and aspirations of all sections of the community are taken into account. One way in which this will be ensured will be through the application of the standards and approaches set out in Walsall's Statement of Community Involvement (SCI), which was adopted in June 2006 and which outlines the ways in which citizens can be involved in the planning process. Government guidance recommends that the sustainability appraisal of LDF documents, such as the joint Core Strategy, should include Equality Impact Assessment.

Consultation

The issues in this report have been discussed with officers from the other Black Country boroughs and Government Office as well as with Legal Services.

The preparation of the joint Core Strategy will involve extensive public consultation - within the borough, across the Black Country and with surrounding areas - throughout the process. The arrangements for this are detailed in the council's adopted SCI.

Vision 2008

The proposed joint Core Strategy, as the key element of the council's Development Plan, will be an important mechanism to turn the Vision's priorities into reality. As a spatial plan, it will impact on some of the Vision's priorities more than others – particularly those concerned with the environment, transport, the economy pride in the borough and consultation, but it should contribute to the achievement of the Vision as a whole.

Whilst the joint Core Strategy will be prepared over a period of about three years, but (to accord with the Regional Spatial Strategy phase 1 revisions) it is envisaged that it will set out policies to 2021. Thus it should help to contribute towards the realisation of a Vision for 2020.

Background papers

- Report to Cabinet – Walsall's Local Development Scheme – 14 June 2006 (attached as **Appendix 1**)
- E-mail from Government Office 7 August 2006
- E-mail from Walsall Council Legal Services 8 August 2006
- E-mail from Walsall Council Legal Services 16 August 2006

Author

Mike Smith
Regeneration Strategy Manager
☎ 652435
✉ smithme@walsall.gov.uk



Tim Johnson
Executive Director
1st September 2006

Cabinet – 14 June 2006

Walsall Local Development Scheme – Revision

Portfolio:	Councillor Adrian Andrew, Regeneration and enterprise
Service:	Regeneration
Wards:	All
Key decision:	Yes
Forward plan:	Yes

Summary of report

This report seeks Cabinet approval for revisions to the Local Development Scheme (LDS), originally approved by Cabinet on 2nd March 2005, to reflect progress over the past year and new proposals for additional documents.

The LDS is essentially a project plan setting out a programme of work for the preparation of the council's Local Development Framework (LDF) that will eventually replace the Unitary Development Plan (UDP) as the development plan for the Borough. The Government requires that the LDS is kept up to date and expects that it will be reviewed annually following publication of the council's Annual Monitoring Report (which was submitted to the Secretary of State in December 2005).

The key change proposed in the draft revision of the LDS is that the Area Action Plan (AAP) previously put forward for the Walsall Regeneration Company (WRC) area, including Walsall town centre, should not be proceeded with. This is because, following discussions with WRC, it was felt that producing an AAP had now been overtaken by the pace of development occurring, much of it in line with the UDP. Where this is not the case it can be dealt with as a departure through the statutory processes. The draft revision also proposes the timetables for Supplementary Planning Documents (SPDs) for Open Space and Recreation, Health Care, Education Provision, Walsall Waterfront and the Borough Design Guide should be reviewed. Following work on the Black Country Study, it is proposed that the Core Strategy, which will provide a framework of strategic planning policies, should be prepared on a joint basis with Dudley, Sandwell and Wolverhampton Council to provide policies across the whole of the Black Country, as well as for each of the individual boroughs. The draft LDS revision also proposes the production of an SPD on conservation area appraisal (a pilot for a series) and an SPD on nature conservation.

Further details are given in **Appendix A** to this report. A copy of the draft LDS revision has been placed in the Members' room.

Approval of the LDS is a key decision as the Town and Country Planning (Local Development)(England) Regulations 2004 require the local planning authority to resolve that the LDS shall be brought into effect and the Local Authorities (Functions and Responsibilities)(Amendment)(England) Regulations 2005 make this the responsibility of Cabinet.

Recommendations

Cabinet is recommended:

1. That the revised Local Development Scheme (LDS) for Walsall be approved for formal submission to the Secretary of State via Government Office for the West Midlands (GOWM).
2. That the Executive Director of Regeneration is authorised, in consultation with the portfolio holder, to amend the LDS revision as necessary in the event of any further comments being received from GOWM and also to update the LDS as appropriate
3. That the revised LDS shall come into effect four weeks after submission (provided that the Secretary of State has not intervened or requested more time to consider the submission).
4. That officers be authorised to work towards the production of a joint Core Strategy for the Black Country, with Dudley, Sandwell and Wolverhampton.

Resource and legal considerations

Following the Planning and Compulsory Purchase Act 2004, the previous development plan system (including this council's UDP) is being replaced gradually by LDFs. An LDF is a loose-leaf portfolio of individual Local Development Documents (LDDs), which is to be kept under continuous review. This should have the advantage that individual documents can be added, revised or removed as necessary instead of there having to be a review of the whole plan. However, it will be some time before the LDF replaces the UDP and the LDS makes the case for UDP policies to be 'saved' until they are replaced by policies in the LDF.

There is some provision in the Council's revenue budget for 2006/7 for the costs of preparing the LDF for the coming year. However, there are likely to be costs that cannot be foreseen and these will need to be addressed through the normal council budget processes.

There is a statutory requirement for the Council to prepare an LDS and to keep it up-to-date. The council's first LDS was submitted to GOWM in March last year and following the Annual Monitoring Report, which the council had to send to GOWM in December 2005, the council is expected to submit a revised LDS for approval by the Secretary of State.

Citizen impact

The LDF will ultimately impact upon citizens throughout the Borough through its influence on planning decisions.

Community safety

There are no implications for community safety directly arising from this report. The future LDF will, however, include policies dealing with community safety, as does the present UDP.

Environmental impact

Sustainable development will be a key aim of the future LDF, as it is with the current UDP, and the procedures for LDF preparation involve stringent requirements for Sustainability Appraisal / Strategic Environmental Assessment.

Performance and risk management issues

The LDS has to be submitted to the Secretary of State (via Government Office) for approval. There is a risk that the Secretary of State might not approve all of the initiatives that the council may wish to pursue. Equally, the Secretary of State will be concerned to ensure the council might not attempt an unrealistic programme of work.

It is important the council keeps its LDS up to date as the maintenance of programme for the production of documents for the LDF, as well as progress in producing the documents themselves, will have implications for the council's performance against Best Value indicators and for the allocation of Planning Delivery Grant.

If the programme is not maintained there is the risk that the authority's Planning Delivery Grant and Best Value performance could be adversely affected. This could happen if resources are not sustained and / or competing priorities distract from the LDF programme.

Equality implications

The preparation of the LDF will need to be as open and inclusive as possible, to ensure that the needs and aspirations of all sections of the community are taken into account. One way in which this is being ensured is through the preparation of the Statement of Community Involvement (SCI) at an early stage of the process. Government guidance recommends that the sustainability appraisal of LDF documents should include Equality Impact Assessment.

Consultation

The proposed revisions to the LDS have been discussed with Planning Services and with Walsall Regeneration Company. The preparation of the LDF will involve extensive public consultation throughout the process. The arrangements for this are detailed in the SCI which is now at an advanced stage of preparation.

Vision 2008

The future LDF, as the Council's Development Plan, will be an important mechanism to turn the Vision's priorities into reality. As essentially a spatial plan, it will impact on some of the Vision's priorities more than others – particularly those concerned with the environment, transport, the economy pride in the borough and consultation, but it should contribute to the achievement of the Vision as a whole.

In practice, whilst the LDS concentrates on a 3-year programme for the production of documents, most of these will relate to the longer term. Thus the LDF should help to contribute towards the realisation of a Vision for 2020.

Background papers

- Walsall Council – Walsall Local Development Framework, Local Development Scheme – Submission 23/03/05, Amended December 2005
- Walsall Council – Annual Monitoring Report – December 2005

Author

Mike Smith
Regeneration Strategy Manager
☎ 652435
✉ smithme@walsall.gov.uk



Tim Johnson
Executive Director

Date: 5 June 2006



Councillor Andrew
Portfolio holder

Date: 5 June 2006

APPENDIX A

Whilst a copy of the proposed LDF revision has been placed in the Members' room, the documents proposed to be part of the council's LDF and the main changes put forward in the revision of the LDS are summarised below.

1. The council has to prepare a Statement of Community Involvement (SCI), setting out how it will involve the community in the preparation of LDDs and the consideration of planning applications. This has taken slightly longer to prepare than anticipated so the adoption date is being moved from April to June 2006 (indeed, following the public examination, the SCI is recommended for adoption elsewhere on this agenda).
2. The key policy document (Development Plan Document – DPD) will be the Core Strategy. The first LDS referred to the possibility that this might be prepared on a joint basis to provide a strategy for all the Black Country boroughs as well as other policies for each one. In the context of the Black Country Study it is now recommended that Cabinet agree the LDS should contain a commitment to work with the other Boroughs towards such a joint strategy. The timetable is being reviewed to ensure the work is co-ordinated between the four authorities.
3. The LDS previously proposed that six topic-based DPDs be produced to deal with Housing and Economic Development; Waste Management; Transport and Accessibility; Shopping and Centres; Recreation, Leisure and Community; and Environment. The timetables for these documents were amended previously at the suggestion of GOWM to allow more time for them to be prepared. It is not intended the revision should alter the proposals at this stage.
4. Two Area Action Plans (AAPs) were proposed last year. The first of these was for the Walsall Regeneration Company Area and the plan was seen as an urgent priority to provide a statutory basis for WRC's Regeneration Framework. Since that time, however, WRC has concentrated on several major regeneration projects, whilst the approach of WRC and Walsall's UDP accord well with each other. Thus for the present time at least there is neither the need nor the basis for an AAP for the area. Consequently, the LDS revision proposes that the AAP is not proceeded with. This provides the opportunity to concentrate resources on the other APP, for Central Willenhall.
5. The first LDS proposed a number of Supplementary Planning Documents, to provide guidance on the implementation of UDP policies. An SPD on Affordable Housing (prepared with Housing Services) has been completed. However, other SPD – on Open Space, Sport and Recreation; Health Care; Education Provision; Walsall Waterfront; and a Borough Design Guide – have all taken longer to prepare than anticipated. At least in part this has been because of the time taken to work with partners or unforeseen requirements for sustainability appraisal as well as because of limits on resources. The revised LDS amends the programmes for these documents as necessary.

6. The LDS revision also proposes additional SPD to the UDP, where these are necessary to improve the implementation of policies and to secure resources. These are:

- A Conservation Area Management Plan for Darlaston, which is a 'pilot' for a programme of such plans for Conservation Areas across the borough; and
- SPD on the Natural Environment to provide more detailed guidelines in respect of nature conservation and trees, following a commitment in the UDP to produce such guidance;

The programme for these reflects the experiences on other SPDs and the resources available to the council.