

Cabinet – 15th March 2017

Walsall Local Plans:

- **Approval for Further Proposed Modifications to the Site Allocation Document (SAD) and Walsall Town Centre Area Action Plan (AAP)**
- **Agreement that work on the Community Infrastructure Levy (CIL) should be suspended pending future proposals by the Secretary of State**
- **Agreement of the revised Local Development Scheme and timetable for the production of plans.**
- **Recommendation that the SAD and AAP are submitted to the Secretary of State for examination.**

Portfolio: Councillor Lee Jeavons
Deputy Leader and
Portfolio Holder Regeneration

Related portfolios: All

Service: Regeneration and Development

Wards: All

Key decision: Yes

Forward plan: Yes

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 'Pre-Submission Modifications' proposed to the Walsall Site Allocation Document (SAD), Walsall Town Centre Area Action Plan (AAP) and the Community Infrastructure Levy (CIL). See Appendix A which is available on the Committee information pages of the Council's website and has been deposited in political group rooms.
- ii. Further Proposed Modifications to the SAD and AAP to address the consultation representation to the Pre-Submission Modifications where appropriate and to amend any minor inaccuracies in the documents ready for submission to the Secretary of State. These 'Submission Modifications' are

listed in Appendix B which is available on the Committee information pages of the Council's website and has been deposited in political group rooms.

- iii. The suspension of work on the Community Infrastructure Levy (CIL) following the announcement in the 2017 Housing White Paper that the Government is to examine the options for reforming the system of developer contributions.
 - iv. The revision of the Local Development Scheme (LDS) to update the timetable to accurately represent the current programme for the production of the SAD and AAP. The revised LDS is available as Appendix C on the Committee information pages of the Council's website and has been deposited in political group rooms.
 - v. A report to the next meeting of Council to seek approval for the submission of the SAD and AAP documents to the Secretary of State for examination.
 - vi. Advising Planning Committee that where there are no outstanding objections to the emerging SAD and AAP policies or to the proposed modifications, that would affect the application of a policy in a particular instance, that they can be given significant weight.
 - vii. Authorisation to enter in principle a Legal Agreement with the Cannock Chase Special Area Conservation (SAC) Partnership to address the practical requirements for mitigation measures to protect the SAC in order to satisfy the requirements of the Habitats Regulations.
- 1.2 The need to up-date the LDS and suspend work on CIL means that Cabinet approval is being sought to progress with the SAD and AAP even though the pre-submission consultation raised no fundamental issues that go to the heart of the plans.
- 1.3 Although there is the recommendation to suspend work on CIL, it is important to progress the SAD and AAP plans in advance of the review of the Black Country Core Strategy, which the local authorities are committed to publishing in the coming months. A report seeking approval for the start of the consultation process will be brought to a future meeting of Cabinet.

2. Recommendations

- 2.1 That Cabinet agrees the proposed responses to the representations received on the Site Allocation Document (SAD), Town Centre Area Action Plan (AAP) and Community Infrastructure Levy (CIL), following consultation on the Pre-Submission Modifications, as set out in Appendix A to this report.
- 2.2 That Cabinet agrees to publish material in preparation for the submission of the plans to the Secretary of State as set out in Appendix B to this report:
 - a) Walsall Site Allocation Document (SAD) – Further Proposed Modifications
 - b) Walsall Town Centre Area Action Plan (AAP) - Further Proposed Modifications

- 2.3 That Cabinet authorises the Head of Regeneration and Development, following consultation with the Executive Director, Economy & Environment, and the Portfolio Holder Regeneration, to propose any additional minor modifications as necessary to be considered by the Planning Inspector at the examination.
- 2.4 That Cabinet agrees work on Community Infrastructure Levy (CIL) is suspended following the announcement in the 2017 Housing White Paper that the Government is to examine the options for reforming the system of developer contributions.
- 2.5 That Cabinet approves the revised Local Development Scheme (LDS) as set out in Appendix C to this report.
- 2.6 That Cabinet agrees to receive a report to a future meeting on the Review of the Black Country Core Strategy (BCCS), including a further update to Walsall's LDS to set out the future programme.
- 2.7 That Cabinet recommends to Council that the SAD and AAP (including the proposed modifications and further modifications) should be submitted to the Secretary of State for examination.
- 2.8 That Cabinet advises Planning Committee that in making planning decisions significant weight can be given to those policies in the SAD and AAP where there are no outstanding objections to policies or to the proposed modifications that would affect the application of a policy in a particular instance that they can be given significant weight.
- 2.9 That Cabinet agrees that officers draw-up and enter into in principle a Legal Agreement with the Cannock Chase SAC partnership to provide for mitigation against the impact on the SAC. That the authorisation for the detailed wording is delegated to the Executive Director before the agreement is submitted in draft to be considered through the SAD and AAP Examination process.

3. Report detail

Background

- 3.1 The Black Country Core Strategy (BCCS), 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.

- 3.2 The Core Strategy and the other documents together form the statutory Development Plan (also known as the Local Plan). The Local Plan shows where new homes, land for industry and other land uses should be located, and the assets such as the Green Belt, open space and sites of nature conservation importance that should be protected. It forms the basis of decisions on planning applications and other strategic decisions by the Council and other bodies.
- 3.3 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 Community Infrastructure Levy (CIL) regime to levy charges on certain types of development, replacing a large part of the regime of s106 obligations.
- 3.4 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.
- 3.5 The consultations undertaken 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 major stage of consultation was about 'Publication' Drafts of the SAD and the AAP and a Draft Charging Schedule for CIL. This took place from 7th March – 3rd 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.

The Pre-Submission Proposed Modification Consultation and Further Proposed Modifications

- 3.6 In response to the Publication representations, Cabinet agreed to consult on proposed Pre-Submission Modifications to the 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, and where necessary correct inaccuracies. The proposed modifications fell within 3 basic types, main modification, minor modification and edits.
- 3.7 The Main Modifications addressed a number of issues, but the principal ones were as follows.

On the SAD

- Amendments to and addition of information concerning the flood risk, and other assets and constraints that affect various sites. These were largely in response to advice from the Environment Agency.
- A small number of potential housing sites, and one potential waste site, were proposed for deleted or had their boundaries and/or capacity revised.
- Revised text to explain the relationship of proposals with the Cannock Chase Special Area of Conservation (SAC).
- Revised wording about the Hatherton Branch Canal proposals, to address concerns about water supply and to explain how impacts on the SAC status of the canal needed to be assessed.

- Revised text about Great Barr Hall and Estate, including the need to address the decision of Historic England to downgrade the status of the Hall from Grade 2* to Grade 2.
- Revised text with respect to the 'dormant' minerals permission at Highfields North in Sheffield.

On the AAP

- Detailed amendments to clarify the application of policies and the implications for future land uses, so that, for example sites that might be 'consider for release' from employment would have specific allocations for appropriate town centre uses.
- Strengthening of the commitment to supporting public transport improvements including through bus station provision (at St Pauls as well as Bradford Place) and through highway improvements.
- Updating of the highway improvements required at road junctions around the town centre.

On CIL

- Clarification of the different size bands of developments o which CIL might apply.
- Explanation that s106 obligations (rather than CIL) would be the mechanism the council would use should there be a need for developments to provide mitigation in respect of potential impacts on European sites (especially Cannock Chase SAC and Cannock Extension Canal SAC).
- Addition of environmental improvement schemes in centres, such as pedestrian linkages, public realm works and specific highway improvements to the list of schemes that it was planned to fund from CIL (the Regulation 123 List).

3.8 Consultation on the proposed modifications took place between 7th November and 19th December 2016. Representations have been received from a total of 36 parties on the SAD discussing around 130 separate points, 6 parties on the AAP discussing 11 separate points and 5 parties about CIL discussing 5 points.. Whilst many of the points made were in support of the Proposed Modifications, there were also representations that were (or could be taken to be) objections. The representations are summarised below. This list includes a handful of representations about proposals already included in the earlier versions of the plans that have not been the subject of the Pre-Submission Modifications.

3.9 More details of the objections, as well as details of other representations that are supportive about the proposed modifications, can be found in Appendix A.

Walsall Site Allocation Document

Homes for our Communities:

- A new objection was made on behalf of the site owner/developer for land at Heathfield Lane West against part of site being removed from the housing allocation because of the SINC and objecting to the allocation of the SINC as open space. No further modifications have been proposed as the previous planning permission on the site pre-dated the adoption of the BCCS, Walsall's Conserving the Natural Environment SPD and the NPPF. It would not be appropriate to have a dual allocation of a housing site and open space/nature conservation.
- Maintained objection on behalf of the site owner/developer for land at Stencill's Farm stating that land within the Green Belt has not been included in the site boundary. This policy/site was not subject to a modification and no further modifications have been proposed as no exceptional circumstances have been demonstrated to support adjusting the boundary in the absence of a comprehensive borough-wide Green Belt review.
- Friends of the Earth made representations stating that the modifications fail to address their concerns about housing for the elderly. No further modifications are proposed as no evidence has been provided to suggest that the over 55s have less access to housing.

Accommodation for Gypsies, Travellers and Travelling Showpeople

- Maintained objection from The National Federation of Gypsy Liaison Groups to the statement in the plan that sites for Travellers should be in a location that would be suitable for general housing. They also argue that the time scale of the current Gypsy and Traveller Accommodation Assessment (GTAA) does not allow for proper consideration of the needs. This representation is not in response to a proposed modification and no further modifications have been proposed. The reference to sites needing to be suitable for general housing is appropriate because in Walsall the only potential sites that are not in the Green Belt are ones that would otherwise either be suitable for general housing, or are needed for other purposes. If the proposed policy was not adopted, it would result in the proposed sites being lost to general housing. The Federation were advised of the draft revised GTAA which seeks to estimate the number of sites that the SAD should identify to the current end date of the BCCS in 2026, but had made no comments.

A representation was received from a member of the public stating that a proposal to make an existing temporary traveller site permanent amounts to an amendment to the Green Belt boundary. This representation was not in response to a modification and no further modifications are proposed. Although the SAD does not describe this proposal as an

amendment to the Green Belt boundary, the effect of the proposal is clear in the plan.

- A number of maintained objections from members of the public to the proposal in the plan to allocate general housing sites for Travellers sites if Dolphin Close does not come forward. These representations are not in response to modifications and no further modifications are proposed as the representations raise no new issues.
- An objection has also been raised by the landowner / developer of Goscote Lane Copper Works (site HO29) stating that the allocation of the site for Travellers should be removed to ensure the maximum delivery of housing. The representation was not in response to a modification and no further modification is proposed. The site is only identified as a potential reserve traveller site if Dolphin Close does not come forward and apart from the availability of funding, this is only likely to occur if the development of Dolphin Close is prevented by a physical constraint, of which none have been found.

Providing for Industrial Jobs and Prosperity

- Maintained objection from a landowner of industrial sites in Darlaston, requesting a greater mix of uses are allocated on the site to improve viability. This representation is not in response to a modification and no further modification has been proposed as no evidence on viability has been provided.
- A new objection has been raised from the land owner of the Electrium site (Ashmore Lake Willenhall) arguing the site should be allocated as a 'consider for release' employment site instead of a retained employment site. No modification has been proposed as no representation about this site has been received at any previous stage of consultation, although the Council's records indicate that the representor has been informed about the various consultation stages since 2011. Much of the site is currently unused but is part of the core employment area under UDP Policy JP5. The remainder is used as a car park for Electrium Point, so is clearly a functioning part of the employment area.
- Maintained objection from the land owners of Deelyes Castings site on Leamore Lane arguing against the allocation of the site as retained employment land due to the fact the site has a committee resolution to grant planning permission for residential. No further modification is proposed and the points made in this representation have previously been addressed by the Council in its response to the representations received at the Publication stage.

Open Space, Leisure and Community Facilities

- Representations from the Canal & River Trust supporting the proposed modification to the Greenways policy but requesting additional text around the need to balance Canals multi-functional nature protecting and enhancing not only their function as 'Greenways' but also their cultural, heritage and ecological value. A further modification has been proposed to reflect the representation.
- Friends of the Earth made representations in relation to Wolverhampton University campus arguing that the policy should specifically seek to protect the amenity value of the surrounding area. No further modifications have been proposed as wider amenity will be taken into account through the application of existing UDP policies.

Environmental Network

- Support from Highways England to the proposed modifications to the Green Belt Policy to promote opportunities for sustainable travel. Friends of the Earth however, are arguing that while the modification picks up most of their concerns it does not address the issue of lack of pavement on some roads in the Green Belt which is a road safety concern. No further modification has been proposed as the previous modification is considered sufficient.
- Lichfield District Council and Cannock Chase District Council generally support the proposed modifications in respect of the Cannock Chase SAC, however they do state that their support is subject to Natural England being satisfied that the approach is robust and effective. Litchfield District Council also suggests some minor amendments to the text which have been proposed as further modifications where appropriate. Natural England welcomes in principle the changes the Council has made but they do propose a modification to the map and text stating it should not refer to the 8km zone around the site as being the 'area of influence'. A further proposed modification has therefore been proposed to amend the title used in both the text and map to "8km Zone of Payment Surrounding Cannock Chase SAC".
- Maintained Objection from the Woodland Trust, requesting a reference to the Urban Forestry Strategy. No further proposed modification has been made as the strategy remains in draft form and is still open for consultation.
- Overall general support from the Environment Agency for the flood risk policy although they have made some detail comments around the technical wording in relation to flood risk throughout the plan. No further modifications have been proposed as the current wording is considered sufficiently clear and many of the suggestions would result in a duplication of the BCCS.

- Objection from the operators of Highfields South Quarry/Landfill to the modification on flood risk assessments and their site being shown as a flood zone. No further modifications have been proposed as the location of flood zones are factual information and are being shown to ensure that any future development proposals without permission undertake the relevant flood risk assessments.
- The Inland Waterways Association have made representations stating that the plan should not seek to restrict boat movements on the Cannock Extension Canal and that a Habitats Regulation Assessment should not be required to take account of cumulative impacts. Lichfield & Hatherton Canals Restoration Trust have also made similar objections to the proposed modifications and they dispute comments from Natural England about the impact of the Hatherton Branch Canal proposals. Natural England on the other hand support the proposed modification arguing there could be adverse impacts on the SAC, as to do the Environment Agency who state that the modification reflects a good balance between the potential opportunities and the present difficulties. The Canal & River Trust are also in general support of the proposed approach. No further modifications are therefore proposed as the council is required to have due regard to the advice of Natural England on European protected sites and the Environment Agency in regards to water supply.
- Support from the Birmingham and Black Country Local Nature Partnership and from Birmingham and Black Country Wildlife Trust for many of the proposed modifications to the Environment policies along with some further suggestions for amendments for to reference bodies such as DEFRA. Whilst many of these amendments may be useful the policy justification is not intended to provide a detailed list of which bodies are involved in the designation of each type of site. No further modifications are therefore being proposed.
- Overall the representations received in relation to Great Barr Hall and Estate (representations have been received from several parties, including Valerie Vaz MP and Historic England) maintain the view that it would be important to ensure the resources for the restoration and the long term preservation of the hall and estate. Never the less some of the points made have helped to make several minor further modifications that improve and strengthen the policy.

Sustainable Waste Management

- The Environment Agency welcomed many of the modifications thanking the Council for taking into account their representations.

Sustainable Use of Minerals

- Support from Staffordshire County Council and Natural England for a number of the proposed modifications to the minerals chapter.

- Maintained objection from the developer of Highfields North about the dormant mineral permission and how this conflicts with the SSSI designation. This representation is not in response to a modification and no further modifications have been proposed. The policy seeks to set out the issues to be addressed in any application for modern working conditions and is therefore considered necessary.
- Maintained objection from the Coal Authority in regards to the plan needing a policy to cover unstable land. This representation was not in response to a modification and no further modification has been proposed as the proposed policy would duplicate existing policies in the UDP and NPPF.

Transport and Infrastructure

- Support from Highways England for the proposed modifications and the emphasis the plan gives to sustainable travel.
- Friends of the Earth suggest a reference is needed to Travel Plans but no further modification is being proposed as this would duplicate existing policy.

Walsall Town Centre Area Action Plan

- Maintained objection to the proposed allocation of a site for education and office as the land owner is concerned this allocation does not provide enough flexibility for the future redevelopment of the site. The site is within the Gigaport area and adjacent to Walsall College so officers consider the proposed allocation to be justified and that the site plays an important role in the regeneration strategy set out in the AAP. No further modifications have been proposed to the AAP.
- Maintained objection to the proposed allocation of the front of Jerome Retail Park for the redevelopment of Bradford Bus Interchange as the land owner has concerns about the loss of some of their retail park and argue that the Council has not considered the alternative options sufficiently. Further evidence will be submitted with the AAP to demonstrate the deliverability of this scheme. No further modifications have been proposed to the AAP.
- A new objection has been raised by Topland, the owners of The Saddlers Centre around the plan not defining Primary and Secondary Frontages and the boundary of the Primary Shopping Area. They also suggest more detail is provided on the retail schemes within the town centre and that the AAP has a specific policy on out-of-centre developments which states that such proposals would not be supported. These issues had been raised as topics, questions and options by the Council at the previous stages of consultation and the current policy approach in the AAP is supported by

robust evidence. The level of detail in the AAP allows for the right degree of flexibility within the town centre to support existing retail and to accommodate the planned future development within the town centre. The approach in the AAP to 'town centres first' for main town centre uses is as strong as possible whilst being in accordance with national planning policy and the Black Country Core Strategy. Therefore no further modifications have been proposed.

- The Canal & River Trust have requested additional text on the maintenance of the canal waterways and further text has been proposed as an additional minor modification to the examiner. No changes have been proposed to address their request for further information on what a canalside community is as this is not considered necessary.
- The Coal Authority has withdrawn objections stating that the Proposed Modifications addressed their points.
- As a Duty-to-Cooperate body the Council has been working with the Environment Agency to confirm wording around the level of risk connected with flooding and the Ford Brook. A modification has been proposed to update the wording around the level of risk of flooding. The reference to CIL being used to fund an Early Warning System has also been amended to reflect the commitment from the Environment Agency to deliver this system.

Community Infrastructure Levy Charging Schedule

- A request from the Canal & River Trust for text to be added to the S106 section of CIL to cover improvements that are needed to the canal network in order to make developments acceptable. If the CIL was to be progressed it is likely that a further modification would have been proposed to address this point and include canals in the S106 section.
- A request from the Environment Agency that the Ford Brook Early Warning System is removed from the 123 List as they are committed to delivering this system in the town centre. If the CIL was to be progressed it is likely that a further modification would have been proposed to address this point and remove the Ford Brook Early Warning System from the 123 List.
- Support from Birmingham and Black Country Wildlife Trust, the Local Nature Partnership and Natural England for the CIL Charging Schedule and the proposed modifications. The support for CIL is welcomed although at present it is being suggested that work on CIL is suspended.

3.10 A small number of modifications have also been proposed to address any outstanding factual inaccuracies in the plans or for clarification to make the plans easier to navigate. None of the proposed modifications change the purpose or meaning of the policies or allocations within the plans and are all considered to be 'minor' modifications. There is no public consultation on

these modifications and the Council will invite the inspector to consider these modifications as part of the examination of the SAD and AAP. Overall there are 34 proposed further minor modifications on the SAD and 4 further minor modifications on the AAP.

The Cannock Chase Special Area of Conservation (SAC)

- 3.11 Following extensive negotiations with the Cannock Chase SAC Partnership and Nature England the proposal in the SAD is that developers of residential development within an 8km 'Zone of Payment' Surrounding Cannock Chase SAC will contribute towards a package of mitigation measures. This 'Zone of Payment' touches the most northern part of Brownhills. Whilst the requirements of the Habitats Regulations may be perceived as demanding, the proposed approach minimises the possible implications for Walsall Borough. The principle that Walsall Council will agree to commit to the authorities involved does appear to be an expectation of Natural England and the Staffordshire authorities that make up the partnership.
- 3.12 Following discussions with Natural England and the SAC Partnership officers have therefore began to draft the necessary legal agreement with support from the Council's legal team. The drafting of an agreement will help officers to negotiate and settle terms. It is proposed that the authorisation of the detailed wording should be delegated to the Executive Director and that the agreement should be submitted in draft to be considered through the SAD and AAP examination process.

The Housing White Paper and Community Infrastructure Levy

- 3.13 The Community Infrastructure Levy (CIL) was introduced as a mechanism to fund the provision of infrastructure such as open space. CIL was proposed by the Government in part to replace contributions that were previously provided through Section 106 obligations made in conjunction with planning permissions. There are now restrictions on the use of section 106 obligations; in particular they are limited in the extent to which contributions from a number of different developments can be 'pooled'. CIL is charged on new developments based on a fixed rate per square metre for each type of land use.
- 3.14 It was the intention that the CIL Charging Schedule would be submitted for independent examination, by an appointed examiner, at the same time as the SAD and AAP was submitted to the Secretary of State. However, the Housing White Paper, published on 7th February 2017 states that the Government will examine the options for reforming the system of developer contributions. The Housing White Paper says that "*the independent review of CIL and its relationship with Section 106 planning obligations, published alongside this White Paper, found that the current system is not as fast, simple, certain or transparent as originally intended*". Amongst other matters, the review recommends that the Government should replace CIL with a hybrid system of tariffs, and Section 106 for larger developments.

- 3.15 The Government states it will make an announcement on the future of CIL at the Autumn Budget 2017. In view of this likelihood of significant changes to CIL taking place before the council is in a position to adopt and implement a charging regime, it is recommended that the draft Charging Schedule is not submitted for examination at this time. This will avoid potentially abortive further work.
- 3.16 It is therefore proposed that the Council continues with the current process of seeking developer contributions through S106. It should however be noted that the Housing White Paper states:
“in addition to considering longer-term reform, the Government believes there is scope to make changes to s106 agreements in the short term to address practical issues in the operation of agreements raised by local planning authorities and developers. This will include consulting on standardised open book Section 106 agreements, to reduce disputes and delays, and on how data on planning obligations could be monitored and reported on to increase transparency”.
- 3.17 It is still the intention to publish the representations and Council’s responses to the CIL Pre-Submission Proposed Modification consultation on the Council website along with a statement confirming that work is being suspended on CIL as a result of the Housing White Paper.

The Programme for the Preparation of Plans

- 3.18 As part of the process for submission of local plans for examination by the Secretary of State, the council is required to have an up-to-date Local Development Scheme (LDS). The LDS is the timetable that sets out the proposed programme for the preparation of local plan documents.
- 3.19 The last revision of the LDS was agreed by Cabinet in September 2014 and progress against the LDS was reported to Cabinet in July 2016. The LDS now needs to be formally updated to reflect the changes in the timetable for the SAD and AAP.
- 3.20 There has been some delay in the production of the plans and the table below shows the amendments to the timetable. The last LDS had submission programmed for July 2016 whereas now we propose March 2017. The main reason for the change in the timetable is to allow for detailed consideration of consultation responses received at the Publication Consultation stage and to allow for consultation on the Proposed Modifications before submission. Whilst this has delayed the timetable it means that the plans being submitted for examination are robust and considered which should result in fewer issues having to be addressed through the examination process and therefore allow for the efficient adoption of the plans following examination. The proposed updated LDS is available as Appendix 3.

LDS PROGRAMME SUMMARY – 2013-2017

Superseded details since the previous revision in September 2014 are struck through ~~thus~~. New text is in *italics*

Issues and Options	
Issues and Options Reports Public Consultation	22nd April - 3rd June 2013 - 6 weeks consultation
Preferred Options	
Cabinet	June July 2015
Preferred Options Reports Public Consultation	August – September 2015 – 6 weeks consultation (may be extended) 7 th September – 2 nd November 2015 (8 weeks)
Towards Publication, Examination and Adoption	
Cabinet (if no further evidence / consultation required)	January 2016
Publication (final draft plan) Public Consultation	February 2016 – 6 weeks consultation 7 th March – 3 rd May 2016 (8 weeks)
<i>Cabinet for Pre-Submission Modifications</i>	27 th July 2016
<i>Pre-Submission Modifications Consultation</i>	7 th November – 19 th December 2016 (6 weeks)
Future Programme	
<i>Examination and Adoption</i>	
Council Approval for Submission	June 2016 10 th April 2017
Submission to Secretary of State	July 2016 April 2017
Examination (by Planning Inspector)	Autumn 2016 July 2017
Adoption (by Council)	End 2016 Autumn 2017

3.21 A report will be brought to Cabinet in early summer 2017 seeking approvals to begin the publication of and consultation upon material for the Review of the Black Country Core Strategy. That report will include details of further proposed revisions to the LDS to reflect the work programme for the Core Strategy Review.

3.22 It should also be noted that the recent Neighbourhood Planning Bill 2016 – 2017 proposes primary legislation to enable the publication of data standards that LDS's must comply with in order to promote easier engagement in plan making and stimulate innovation. This may well also be connected to the Governments proposal to set out in regulations a requirement for local planning authorities to review (and if necessary update) their local

development documents at least every five years. It may therefore be necessary to propose further amendments to the LDS to reflect these new requirements. Such Government proposals are also likely to have significant impacts on resources and staffing.

Submission of the Plans for Examination

- 3.23 The next stage for the plans is for the SAD and AAP to be submitted for examination by an inspector appointed by the Secretary of State. The inspector will assess whether the 'Publication' drafts of the SAD and AAP, together with the Proposed Modifications and the Further Proposed Modifications, meet the legal and policy tests of 'soundness'. Besides requiring various legal and procedural requirements to be met, these tests mean that plans must be:

Positively prepared– does the plan allocate enough land to meet all needs for the various uses where it is reasonable to do so and consistent with placing development in the right locations?

Justified– is the plan the most appropriate strategy when considered against reasonable alternatives?

Effective– can the proposals in the plan be delivered over its period? and

Consistent with national policy– is the plan in accordance with national policies?

- 3.24 It is expected that the inspector will hold an examination in public in the Summer of 2017. This will allow the inspector to question council officers and the various parties who have submitted representations. The exact timetable for the examination will be set by the Planning Inspectorate and is therefore subject to change depending on their resource availability.
- 3.25 Following the examination, the inspector will issue his / her findings to the council. These will either recommend that further work is required to make the plans 'sound' or to address other concerns, or that the plans, either with or without the pre-submission and submission modifications proposed by the council, can be adopted. If the latter, the Council will be invited to adopt the plans. They will then form part of the statutory Development Plan, together with the existing Black Country Core Strategy, and the remaining 'saved' policies of Walsall's Unitary Development Plan. 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 the revised LDS.
- 3.26 The SAD states that the Black Country Councils are committed to a review of the BCCS starting in 2016. This is necessary to ensure the proposals in the plan are still appropriate, to address development needs beyond the period of the current local plans and because of issues arising from the Birmingham's Development Plan. Some background technical work has been commenced,

but publication of material on the potential scope of the review will be a matter to be reported to Cabinet during coming months. The review will take some years and the meantime Walsall's SAD and AAP will make important contributions to meeting both the needs already identified in the current BCCS and those that might arise out of any review.

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 2017 – 2020) 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 meet the Council's priority of ensuring Walsall people *"have access to jobs so economic benefits are felt in each of our communities"* and that *"Walsall is a clean, safe and healthy place, with the right housing to meet need, accessible to all and with a strong sense of belonging and cohesion."* I. They should also help all of those who are concerned with the future use of land and premises to plan for the future.

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, including about proposed modifications, 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 the SAD which would then require further reports to Cabinet.

6. Financial implications

- 6.1 No new implications arise from the recommendations of this report. The costs of preparing the plans and submitting them for examination 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.
- 6.4 If the Council was to continue to progress work of the Community Infrastructure Levy (CIL) despite the announcements in the Housing White Paper there could be a risk that the Council would spend money on a CIL examination but then have to revoke or revise CIL in light of the Government changes.

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. The Neighbourhood Planning Bill, currently going through Parliament, proposes that having an up-to-date Local Plan should be a statutory requirement.

- 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)¹ and Government Policy (particularly in the National Planning Policy Framework). Any planning document for Walsall has also to be consistent with the Black Country Core Strategy.
- 7.3 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).
- 7.4 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.
- 7.5 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. The need to do further work in relation to the Habitats Regulations involved amendments to the Strategic Environmental Assessment (included with the Sustainability Appraisal), which triggered a requirement for consultation under the Environmental Assessment of Plans and Programmes Regulations 2004. Such a requirement gave the opportunity for Pre-Submission Modifications to the plans, an approach supported by Government guidance. Now, whilst some Further Proposed Modifications have been put forward, these are minor and there is no need for public consultation before they can be considered through the Examination processes.
- 7.6 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 significant weight can be given to those policies in the SAD and AAP where they are not the subject of outstanding objections that would affect their application in particular cases

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

- 7.7 The Housing White Paper states that the Government is legislating through the Neighbourhood Planning Bill to put beyond doubt the requirement for all areas to be covered by a plan. Government say that authorities failing to ensure an up-to-date plan is in place are failing their communities, by not recognising the homes and other facilities that local people need, and relying on *ad hoc*, speculative development that may not make the most of their area's potential.

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

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.

- 10.2 To manage the examination and act as an impartial link between the authority and the Inspector the Council is required to appoint a Programme Officer. This would be on a short-term contract with payment related to the work needed for the Examination. The Inspectorate requires the appointment to be made before the plans are submitted to the Secretary of State.
- 10.3 It should be noted however, that recently the Planning policy team has had a member of staff off on long term sick and two members of experienced staff leave without currently being replaced. The production of Plans in accordance with the timescales set out in the LDS is therefore a challenge. It is also likely that staffing levels will be an issue during the examination on the SAD and AAP. A failure to have a resourced and experienced team is therefore a risk in terms of having up-to-date robust plans. This is only likely to become a greater issue as the Council starts work on the revised Black Country Core Strategy and the Government looks to implement further requirements on Councils such as revising plans every 5 years.

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 groups such as gypsies and travellers.

12. Consultation

- 12.1 There has been a great deal of 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. 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 Consultation during the several stages of preparation of the plans has involved letters and emails to interested parties (over 2,000 individuals are 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. The Pre-Submission Proposed Modifications were subject to public consultation between 7th November and 19th December 2016.
- 12.3 No further consultation is required on the Further Proposed Modifications. However, all parties who have expressed an interest will be advised of the

submission of the plans to the Secretary of State and of the arrangements for the Examination.

Background papers

Schedules of Representations and Responses (in respect of the SAD, AAP and CIL), Further Proposed Modifications (to the SAD and the AAP) and A Revised Local Development Scheme are all provided as Appendices to this report.

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/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

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)

Housing White Paper and associated documents.

<https://www.gov.uk/government/publications/fixing-our-broken-housing-market>

Neighbourhood Planning Bill 2016 – 2017
<http://services.parliament.uk/bills/2016-17/neighbourhoodplanning.html>

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6 March 2017



Councillor Jeavons
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6 March 2017

Appendix A
'Pre-Submission Modifications Consultation' - Schedules of
Representations and Proposed Council Responses

See separate document which is available on the Committee information pages of the Council's website and has been deposited in political group rooms.

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

Appendix B

Further Proposed Modifications

See separate document which is available on the Committee information pages of the Council's website and has been deposited in political group rooms.

Appendix C

Proposed Revised Local Development Scheme

See separate document which is available on the Committee information pages of the Council's website and has been deposited in political group rooms.