



PLANNING COMMITTEE

30 October 2023

REPORT OF HEAD OF PLANNING & BUILDING CONTROL

Sandwell Local Plan – Duty to Cooperate

1. PURPOSE OF REPORT

- 1.1 Planning Committee previously resolved to agree a response on the Sandwell Local Plan (Issues and Options Report) and refer that response to Cabinet for endorsement at a meeting on 9 March 2023. The Sandwell Local Plan was formally out for consultation in February and March 2023. Cabinet subsequently endorsed that recommendation at a meeting on 22 March 2023 and our response was sent to Sandwell MBC.
- 1.2 Walsall Council, along with the other Black Country Authorities (BCAs), have been subsequently asked to respond to a letter from Sandwell MBC on the Sandwell Local Plan, sent out on 31 May 23 under Duty to Cooperate, with particular regard to cross-boundary strategic planning matters. The purpose of this report is to agree a response to that letter.

2. RECOMMENDATION

- 2.1 To agree the response as set out in **appendix 1**, and refer it to the Director for Economy, Environment & Communities to submit the response to Sandwell MBC in consultation with the Portfolio Holder for Regeneration.
- 2.2 To grant delegated authority to the Head of Planning & Building Control to make amendments to the response to Sandwell MBC following consultation with the Portfolio Holder for Regeneration as necessary.

3. FINANCIAL IMPLICATIONS

- 3.1 None arising directly from this report.

4. POLICY IMPLICATIONS

- 4.1 Following the decisions of the four Black Country local authorities to cease work on the Black Country Plan (BCP), each authority is now beginning work on their own local plans.
- 4.2 The nature of the Black Country is that the supply of land for housing, employment and other land use requirements overlap between the authorities. Sandwell Borough is physically constrained with very little land available to meet its own needs. As a result, the BCP envisaged some of its supply being provided in neighbouring authority areas, notably in Walsall and Dudley boroughs.
- 4.3 The extent to which the proposed Sandwell Local Plan meets Sandwell's needs will therefore have implications for the needs expected to be met in the Walsall Borough Local Plan.

5. LEGAL IMPLICATIONS

- 5.1 Walsall Council is currently under a legal Duty to Cooperate with neighbouring planning authorities with regards to strategic cross boundary planning matters. Under current planning regulations, the extent of engagement with neighbouring authorities will be tested as part of the examination of both Walsall's and Sandwell's local plans.

6. EQUAL OPPORTUNITY IMPLICATIONS

- 6.1 The Sandwell Local Plan will be required to ensure the needs of all sections of the community are met.

7. ENVIRONMENTAL IMPACT

- 7.1 The issues and options review is accompanied by a sustainability appraisal and Habitat Regulations assessment which will be updated as the plan is progressed.

8. WARD(S) AFFECTED

- 8.1 All.

9. CONSULTEES

- 9.1 Officers in Planning and Building Control have been consulted in the preparation of this report.

10. CONTACT OFFICER

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11. BACKGROUND PAPERS

All published. Documents for the Sandwell Local Plan can be viewed at:

https://www.sandwell.gov.uk/info/200317/planning_policy/4990/sandwell_local_plan

Earlier planning committee report on Sandwell Issues & Options is available [here](#)

Appendix 1

Response from Walsall Council to Sandwell MBC - letter dated 31st May 2023 on the Sandwell Local Plan under Duty to Cooperate

Dear Philippa,

Sandwell Local Plan – Duty to Cooperate

Thank you for your letter of 31 May 2023 which helpfully sets out the timetable for the preparation of the next stages of the Sandwell Local Plan and seeks the views of Walsall Council on a number of related Duty to Cooperate issues. We address these issues in turn below.

The Strategic Issues

We note and confirm that current legislation and guidance requires that the Black Country Authorities (BCAs) have a Duty to Cooperate with each other on strategic matters that cross administrative boundaries. We agree that in a Black Country context, at this stage, the principal strategic issues that affect the preparation of the Sandwell Local Plan remain those set out in the ABCA letter of 26th April - meeting unmet housing needs, meeting unmet employment needs and strategic transport issues. There will of course be issues of more local significance including site specific proposals that will arise through the preparation of the Sandwell Local Plan and the Walsall Borough Local Plan that will require further and ongoing engagement.

There may also be intra Black Country issues that were previously to be dealt with through the BCP. These comprise matters where one or more of the BC authorities contributed to the wider needs of the BC. Examples might include minerals, mineral infrastructure and strategic waste facilities.

Strategic Housing Issues

We note that Sandwell Council will be writing to Shropshire and Lichfield Councils, regarding their submitted Local Plans, asking them to confirm that the housing 'offer' made to the Black Country as a whole remains. We also note that Sandwell Council will be writing to all other authorities where Local Plans have progressed up to Regulation 19 stage and from whom the BCAs anticipate that a potential contribution may arise (South Staffordshire (Reg 19), Stafford (Reg 18), Solihull (examination), Bromsgrove (Reg 18), Telford & Wrekin (Reg 18) and Cannock Chase (Reg 19 approved by Cabinet but not yet consulted on).

We recognise that it is important to understand how any contributions made to the Black Country as a whole can be apportioned between the BCAs in order to give certainty for individual Local Plans to progress. Specifically, given the cessation of work on the Black Country Plan, all the BCAs need to determine the extent of the shortfall between housing need and forecast supply in their area, taking into account contributions from neighbouring areas, in order to progress individual Local Plans

and inform ongoing Duty to Cooperate work. Cessation of the BCP does not alter the needs of the four BC authorities as a whole, nor the total supply within their combined areas.

We recommend that this apportionment is in two stages. Firstly, it is important to understand the extent to which existing and forecast supply can accommodate identified housing needs over the Local Plan period. This stage 1 work will establish the housing shortfall for each of the BCAs.

In the case of Walsall, our likely available housing land supply is uncertain. The supply indicated in the draft BCP, including a large number of dwellings to be allocated on land that is currently in the Green Belt, would approximately meet Walsall's local need to 2039, which was the intended end date of the BCP. However, the requirement to extend the WBLP to 2041 or 2042 as a result of the cessation of the BCP means that our local need has increased, currently by 909 dwellings per additional year according to the standard method. Walsall is therefore unlikely to be able to offer any contribution to meet Sandwell's housing need.

In addition, the proposed changes to the NPPF would, if implemented, mean that Walsall would not be expected to allocate land in the Green Belt to meet its housing need. This would result in a very large housing shortfall.

The next stage should apportion any contributions to the individual BCAs which can evidence a housing shortfall from Stage 1. It is essential that this apportionment approach is evidence based and reflects the likelihood that new homes built in the contributing authority will directly address the needs arising in the receiving authority. This likelihood can be estimated by considering historic patterns of migration between different areas, giving the apportionment figure credibility and a strong degree of certainty. On this basis, we strongly recommend that the level of apportionment is proportionate to the actual functional relationship between the exporting area and the individual BCA where the shortfall arises. The most robust dataset to base this approach on is migration data available on an annual basis from ONS, which is based on a combination of administrative data taken from the National Health Service Central Register, the Patient Register Data System and the Higher Education Statistics Agency.

This data is published over an extended period (2001-19) in the form of net flows – the difference between outflows and inflows. The relationship between the individual BCAs and Shropshire and Lichfield (those areas where Local Plan are the most progressed and where 'offers' have been made on a Black Country basis - 1,500 from Shropshire and 2,000 from Lichfield) is set out in Table 1 below.

Table 1 – net migration flows between the BCAs and Shropshire 2001-19

| BCA | Net Movements to Shropshire | Proportion of all BCAs | Net Movements to Lichfield | Proportion of all BCAs |
|---------------|------------------------------------|-------------------------------|-----------------------------------|-------------------------------|
| Dudley | 2,702 | 28.7 | 224 | 3.4 |
| Sandwell | 1,614 | 17.2 | 1,208 | 18.5 |
| Walsall | 1,374 | 14.6 | 4,710 | 72.1 |
| Wolverhampton | 3,715 | 39.5 | 391 | 6.0 |
| Total | 9,405 | 100.0 | 6,533 | 100.0 |

This data shows that all BCAs are net ‘exporters’ of people to Shropshire and Lichfield. Wolverhampton has the strongest relationship with Shropshire (39.5% of net outflows from the BCAs), whereas Walsall has the strongest relationship with Lichfield (72.1% of net outflows). Using this approach, and subject to the stage 1 exercise, each of the BCAs would receive a proportion of the Shropshire and Lichfield ‘offers’ proportionate to their share of the net outflow figure as set out in Table 2 below.

Table 2 – potential contributions apportioned between BCAs

| BCA | Apportionment from Shropshire | Apportionment from Lichfield |
|---------------|--------------------------------------|-------------------------------------|
| Dudley | 431 | 68 |
| Sandwell | 258 | 370 |
| Walsall | 219 | 1,442 |
| Wolverhampton | 593 | 120 |
| Total | 1,501* | 2,000 |

- Due to rounding up

It could be argued that migration can only arise when homes are available for households to move to. Past net migration rates therefore may not reflect future rates where an authority increases its housing supply. However, even in areas of high housing growth, new homes only account for a small proportion of the housing supply. If the Black Country met its housing needs in full (76,076 homes between 2020 and 2039), this would equate to a less than 1% annual growth in the total housing stock. Most household moves involve existing homes rather than new build. Use of past migration rates to apportion housing offers from neighbouring authorities therefore provides a robust methodology.

In order to confirm this approach, we recommend that all of the BCAs sign a single Statement of Common Ground confirming the ‘share’ of the overall BCA offer as set out in Table 2, subject to the Stage 1 exercise.

Going forward, we also recommend that this two stage process could be applied to other, less progressed Local Plans where the BCAs are seeking a contribution towards meeting unmet needs. However, in the case of contributions offered to the Greater Birmingham and Black Country Housing Market Area (HMA) as a whole, the approach would need to be widened to cover all authorities in the HMA which can demonstrate a shortfall, including Birmingham.

Strategic Employment Issues

Your letter summarises the current and potential contributions from neighbouring areas to address the shortfall of employment land which arises across the Black Country Functional Economic Area (FEMA). The FEMA corresponding to the geography of the BCAs.

Given the need to establish and plan for needs arising across FEMAs as a whole as set out in the Planning Practise Guidance (PPG), the approach to addressing the shortfall is different to that for housing. Contributions secured through current Statements of Common Ground between the BC FEMA authorities and Shropshire and South Staffordshire Councils have potential to provide some 133.6 ha towards BC FEMA needs, which would reduce the BC FEMA shortfall to 22.4 ha. The BCAs should individually and collectively continue to engage with other neighbouring authorities preparing Local Plans which have a functional relationship with the BC FEMA, to help address the shortfall across the BC FEMA as a whole. The focus for this work will be those areas identified in the EDNA as having strong or moderate relationships with the BC FEMA (Bromsgrove and Tamworth) and other areas which have an evidenced relationship with the BC FEMA (Stafford and Telford & Wrekin). At the same time, the BCAs should continue to maximise all opportunities to accommodate needs arising through the preparation of individual Local Plans. For this reason, it is not considered necessary to apportion the current and potential contributions between the BCAs.

You will be aware that the Economic Development Needs Assessment is being updated in order to provide the most up to date position on forecast employment land demand and supply. This work will confirm the scale of the shortfall that DtC activity should seek to address.

Summary

In summary, the Council welcomes the progress being made with the preparation of the Sandwell Local Plan and the proposed approach towards meeting the Duty to Cooperate. We strongly commend the proposed approach towards the apportionment of housing contributions and that for employment land. As set out above, we also recommend that this approach is formalised through a Statement of Common Ground between the BCAs.

Yours sincerely,

Director for Economy, Environment & Communities