



## PLANNING COMMITTEE

25 July 2024

### REPORT OF HEAD OF PLANNING & BUILDING CONTROL

#### South Staffordshire local plan review – duty to co-operate

#### 1. PURPOSE OF REPORT

- 1.1 South Staffordshire District Council (SSDC) consulted Walsall Council on 18 April 2024 on their Local Plan Review (LPR), regulation 19 stage (April 2024). The purpose of this report is to agree the council's response to that consultation. The consultation follows a letter from SSDC which planning committee considered on 15 January 2024.

#### 2. RECOMMENDATION

a) agree the wording set out in **appendix 1** as a basis for Walsall Council's response to the consultation request from South Staffordshire District Council dated 18 April 2024 on their Local Plan Review (regulation 19 stage), under duty to cooperate.

b) authorise the Executive Director for Economy, Environment & Communities to submit the council's full response to South Staffordshire District Council in consultation with the Portfolio Holder for Regeneration, with delegated authority given to the Head of Planning and Building Control Services to make amendments to its contents as necessary.

#### 3. FINANCIAL IMPLICATIONS

None arising directly from this report.

## **4. POLICY IMPLICATIONS**

- 4.1 The report summaries the strategic planning issues, which the council consider to be of cross-boundary significance with SSDC, and which are applicable to the consultation on their local plan at regulation 19 stage. A regulation 19 consultation is fundamentally about the legal soundness of the plan, for instance has the plan been prepared positively, is it justified and effective and in line with current national planning policy and effective joint working under duty to co-operate.
- 4.2 SSDC consulted on a previous regulation 19 stage of their LPR in November 2022. That plan proposed releasing significant areas of Green Belt land within its area to accommodate their own housing need as well as a 4,000 dwelling contribution to meeting the unmet needs of the Greater Birmingham and Black Country Housing Market Area (HMA), which includes Walsall.
- 4.3 The council, along with other authorities within the HMA, were subsequently consulted by SSDC, through a letter dated 24 October 2023, on our views on a change in planning strategy within the LPR, in only releasing a limited amount of Green Belt land, around their tier 1 (major) centres. In so doing, this would cut the number of dwellings offered to the HMA from 4,000 to 640.
- 4.4 The justification which SSDC referred to in progressing this planning strategy is set out in the National Planning Policy Framework (NPPF) which states that there is no requirement for Green Belt boundaries to be reviewed when plans are being updated, but authorities may choose to do this when exceptional circumstances are evidenced and justified (para. 145).
- 4.5 Planning Committee at its meeting on 15 January 2024 responded to the letter from SSDC of 24 October 2023, expressing concerns, primarily about the reduction in the numbers of dwellings now being offered to the HMA.
- 4.6 The basis of our response was that, while we acknowledged the change in emphasis on the need to release Green Belt land within the NPPF, the framework needs to be looked at as a whole. This includes, in particular, paragraph 35 which states that in order for a local plan to be found sound, among other criteria, it needs to provide a strategy which, as a minimum, seeks to meet the area's objectively assessed needs and is informed by agreements with other authorities, so that unmet needs from neighbouring authorities is accommodated where it is practical to do so and is consistent with achieving sustainable development.
- 4.7 As SSDC have carried forward this strategy within their regulation 19 local plan (April 2024), Walsall officers responded within the consultation period in a letter dated 29 May 2024, raising similar concerns about the soundness of the LPR, based on it not effectively accommodating the unmet need from neighbouring authorities. Other issues were raised in the response on the scope and wording of certain policies within the LPR.

- 4.8 The purpose of this report is to seek a council response to SSDC on the LPR regulation 19 stage (April 2024) consultation, endorsing the previously submitted officer response, on the basis of the content set out in the letter attached at **appendix one**.

## **5. LEGAL IMPLICATIONS**

- 5.1 Duty to cooperate is derived from section 110 of the Localism Act 2011. This inserts section 33A in the Planning and Compulsory Purchase Act 2004 (as amended). Section 33A is proposed to be removed by the Levelling Up and Regeneration Act (LURA) 2023. However, the relevant part of the LURA is not yet in force as it is subject to commencement and transitional provisions. The extent to which the new government will carry forward the LURA, and any transitional provisions for local plans that are already in preparation, is currently unclear.

## **6. EQUAL OPPORTUNITY IMPLICATIONS**

- 6.1 The South Staffordshire local plan review will be required to ensure the needs of all sections of the community are met.

## **7. ENVIRONMENTAL IMPACT**

- 7.1 The South Staffordshire local plan 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 and in Legal services have been consulted in the preparation of this report.

## **10. CONTACT OFFICER**

David Holloway – Planning Policy Manager

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## **11. BACKGROUND PAPERS**

All published.

Documents and an update position on the South Staffordshire local plan review can be viewed at <https://www.sstaffs.gov.uk/planning/planning-policy/local-plan-review>:



## **appendix 1**

### **response from Walsall Council to South Staffordshire District Council - letter dated 18 April 2024 - on the South Staffordshire local plan review - under duty to co-operate**

#### **South Staffordshire District Council – Regulation 19 Publication Plan Consultation**

Thank you for your letter dated 18 April 2024.

You have already received an officer response on the South Staffordshire District Council Reg. 19 Local Plan Review (LPR) (April 2024) on 29 May 2024 within the consultation period.

The response below has been authorised in accordance with Walsall’s scheme of delegation by planning committee, with the final wording agreed by the executive director.

These comments are based on the national policy and legal situation as it existed prior to the general election. It is unclear at present whether any changes to be made by the new government will affect existing local plans that are in preparation.

As previously stated, under the planning system, the duty to co-operate remains at least until the relevant provisions of the Levelling Up and Regeneration Act 2023 come into effect. Section 33A (2) of the Planning and Compulsory Purchase Act 2004 (as amended) states that the duty requires local planning authorities to engage constructively, actively and on an ongoing basis. We therefore trust that, while this response is outside of the consultation period, that you will give due and constructive consideration to its content as part of your plan-making process.

The strategy of the South Staffordshire local plan is largely as proposed in your letter dated 24 October 2023 which we responded to on 22 January 2024. We stated in our letter that National Planning Policy Framework (NPPF) paragraph 35 still stands. This states that plans are ‘sound’ if they are positively prepared in providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development.

NPPF footnote 19, which is referenced to paragraph 35, states that housing needs should be assessed using a clear and justified method, as set out in paragraph 61. Paragraph 61 states “in addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for”.

We note the wording in paragraph 145 of the December 2023 NPPF. However, we contend that the framework should be viewed as a whole. We consider that the

proposal in the plan to reduce the number of homes proposed to contribute to meeting the needs of neighbouring authorities from 4,000 to 640 does not align well with the test of soundness requiring plans to be positively prepared.

There is strong evidence that Birmingham and the Black Country do not have capacity to accommodate our housing or employment land needs, even if land was used that is currently allocated as Green Belt. This is evidenced within:

- the adopted Birmingham Development Plan;
- work carried out for the demised Black Country Plan and regional evidence prepared by the Greater Birmingham and Black Country Housing Market Area (GBBCHMA); and
- as set out within your regulation 18 plan.

We note that South Staffordshire have taken an active role in the preparation of this above evidence. In our view, the December 2023 NPPF revision does not alter this need or the supply shortfall.

We acknowledge that the duty to cooperate paper submitted as part of the evidence base for your local plan includes a statement of common ground (SoCG) with Walsall. While it is marked draft, we wish to make it clear that it has not been endorsed either by Walsall's officers or members. We intend to respond to the SoCG in due course, following our appropriate scheme of delegation.

Nevertheless, we welcome the acknowledgement by South Staffordshire in the draft SoCG that there are very significant shortfalls in housing arising from the Black Country. In view of this acknowledgement, we remain to be convinced how you are then able to conclude that "SSDC no longer considers that all of the previous proposed Green Belt sites are justified by exceptional circumstances."

NPPF paragraph 145 states "strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period. Where a need for changes to Green Belt boundaries has been established through strategic policies, detailed amendments to those boundaries may be made through non- strategic policies."

In our view the need for changes to Green Belt boundaries should be established by the evidence of housing need at the strategic level, and there has been no demonstrable change in the evidence to justify exceptional circumstances that might support detailed amendments to boundaries in relation to individual sites.

With respect to specific policies in the draft plan, we would comment as follows:

#### Policy DS1 – Green Belt

The new plan will replace, rather than alter, the previous local plan. The penultimate sentence which begins "The Green Belt boundary is altered" should therefore form part of the supporting text rather than be part of the policy itself. The revised Green

Belt boundary will be defined on the amended policies map as referred to in the first sentence of the policy.

It is considered that an alternative to the term “damaged and derelict land” should be used as it could provide justification for development on land that has been damaged intentionally. It might be preferable to use the term “previously developed land” as this is defined in national policy.

**Policy DS2 – Green Belt Compensatory Improvements**

Following on from our comments on policy DS1, to be effective, this policy should refer to the specific sites that the policy will apply to.

**Policy SA5 – Employment Allocations**

The employment types to be allowed on the listed sites should refer to class E(g)(ii) and (iii) to exclude offices within class E(g)(i), as offices are a main town centre use.

**Policy HC3 – Affordable Housing**

The term “major housing development” should be defined to ensure that the policy is sound. We recommend that it should refer to developments of 10 or more homes in accordance with the definition of major development in the GDPO.

We look forward to further engagement with your council especially under duty to cooperate/alignment test protocols as we progress our respective local plans.

Yours sincerely

**Dave Brown**

**Executive Director, Economy, Environment and Communities**