

Report to Cabinet

22 June 2022

Subject:	Draft Black Country Plan: Consultation on Additional Housing Sites and amendment to the Local Development Scheme (LDS)
Cabinet Member:	Cabinet Member for Regeneration & Growth, Councillor Peter Hughes
Director:	Director Regeneration & Growth, Tony McGovern
Key Decision:	Yes Type (c) - an executive decision which is likely to be significant in terms of its effect on communities living or working in an area comprising two or more wards of the Borough.
Contact Officer:	Patricia McCullagh – Planning Policy Team Leader patricia_mccullagh@sandwell.gov.uk

1 Recommendations

- 1.1 That approval be given to an additional Regulation 18 consultation to include in the Black Country Plan the additional Walsall sites.
- 1.2 That approval be given to the approach to the consultation as set out in Appendix A and Sustainability Appraisal Report Appendix B.
- 1.3 That approval be given to update of the Sandwell Local Development Scheme 2021 and updated timeline set out in Appendices C & D.
- 1.4 That the Director for Regeneration and Growth be authorised to make any necessary minor amendments to the Draft Plan and other consultation documents prior to the commencement of the Regulation 18 consultation process.



- 1.5 That the Director for Regeneration and Growth be authorised to make minor changes to the Local Development Scheme that may be required prior to making it available to the Public, in consultation with the Cabinet Member for Regeneration & Growth.

2 Reasons for Recommendations

- 2.1 The purpose of this report is to seek approval for Regulation 18 consultation on the additional sites identified in Walsall for the Black Country Plan (BCP) set out in Appendix A and to seek approval for the updated Local Development Scheme (LDS) and timeline 2022 set out in Appendices C & D.

Regulation 18 consultation on the additional sites in Walsall

- 2.2 The Council and its partner authorities in the Black Country (Wolverhampton City Council, Dudley Council and Walsall Council) are currently moving through the consultation stages of the Black Country Plan, which is in preparation and will form part of the development plan when adopted. The Council is required by law to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. Development plans are therefore very important as the basis for economic development and regeneration, protecting land uses and supporting the physical enhancement of the Borough. Plans require careful preparation, are subjected to public scrutiny and examined by independent Planning Inspectors in public before adoption can be achieved.
- 2.3 The BCP will, once adopted, replace the existing Black Country Core Strategy (BCCS) and parts of the Sandwell Site Allocations & Delivery Plan (SAD). The BCP will aim to provide sufficient land for homes and jobs to promote sustainable growth in the Black Country, as well as safeguarding and enhancing the natural and built historic environment, for the period to 2039.
- 2.4 The first stage of public consultation on the BCP addressed the Issues and Options Report in 2017; the outcome of that consultation informed the production of the Regulation 18 version, known as the Draft Plan. As well as providing more detail about the number of additional homes and amount of employment land that the plan aimed to provide, the Draft Plan identified specific sites that we proposed to be allocated for development.



- 2.5 Regulation 18 required the Local Planning Authority to consult on the content of the draft local plan, including site allocations. As a result of the consultation, submissions have been received and reviewed for the introduction of new allocations of suitable sites lying within the Walsall area and the internal review of a previously excluded call for site submission.
- 2.6 This report seeks authorisation to consult on those additional suitable housing sites in Walsall for the Draft Plan version of the Black Country Plan.
- 2.7 The next stage is the production of a Regulation 19 plan. The Regulation 19 publication will be informed by the previous consultation and this version for consultation would seek representations on the soundness of the plan which is the main criteria considered by the Planning Inspectorate at the future examination in public. However, for this reason it is not considered that new proposed site allocations in the Green Belt can be added at Regulation 19 stage and an additional Regulation 18 consultation is therefore required for these new Walsall sites.
- 2.8 By including the sites in the Regulation 19 BC Plan we will be closer to meeting the housing need of the Black Country for the period up to 2039. This gives us a more robust and sound Plan.
- 2.9 Whilst the additional sites only lie in Walsall, similar reports are being taken to the respective cabinets of Dudley, Walsall and City of Wolverhampton.
- 2.10 For these reasons it is recommended that approval to consult on the additional sites identified in Walsall be accepted.

Local Development Scheme 2022

- 2.11 The LDS is the Council's three-year project plan that identifies which local plan documents will be produced by the Council, in what order and by when. All documents would be subject to Cabinet and Full Council approval at the relevant stages.
- 2.12 The Council needs to review its planning documents at regular intervals to assess whether some or all of them need updating. The LDS therefore



also provides information on the timetabling of several existing approved planning documents which need to be reviewed.

- 2.13 Local Planning Authorities are required to prepare their LDS and make it available to the public; there is no longer a requirement to submit or report on them to the Secretary of State.
- 2.14 An Equalities Impact Assessment (EIA) has not been carried out. The LDS is a programme of the documents to be produced over the next three years and does not in itself create policy. Each document within the LDS will be subject to an EIA as part of its preparation.
- 2.15 The inclusion of the additional Regulation 18 consultation on the additional sites in Walsall impacts on the BCP timetable and also on the timetable for the Sandwell Development Plan (SDP). Therefore, the LDS has been amended to reflect this.
- 2.16 For these reasons it is recommended that the updated Sandwell LDS be accepted.

3 How does this deliver objectives of the Corporate Plan?

	<p>Best start in life for children and young people – the BCP and LDS helps to set up policies that will contribute to the delivery of facilities, services and opportunities for children and young people through the local plan process.</p>
	<p>People live well and age well - Health and wellbeing is a key theme addressed throughout the documents of the BCP and the LDS. It will promote healthy living and create opportunities for active lifestyles and healthy transport choices including walking, cycling and outdoor recreation.</p>
	<p>Strong resilient communities – The BCP and the LDS will build in effective community involvement and will be important to local communities.</p>
	<p>Quality homes in thriving neighbourhoods – the BCP and the LDS will play an important part in delivering the spatial and land use aspects of the Council’s vision 2030, particularly as it relates to housing, employment, transport, environment and education goals.</p>



	A strong and inclusive economy - The BCP and Sandwell Development Plan will provide the regeneration framework for future investments and projects.
	A connected and accessible Sandwell - Sustainability is a key theme addressed throughout the documents of the BCP and the LDS. They will help to deliver sustainable, prosperous communities, an integrated transport network and reduce the need to travel by car.

4 Context and Key Issues

4.1 Additional Regulation 18 consultation on sites identified in Walsall

4.2 The BCP will form a key part of the statutory development plan once adopted. The development plan is a document, or collection of documents, that identifies future needs for homes, employment and other land use requirements, and contains policies to safeguard open space, areas of value for nature conservation or built heritage. It forms the basis in law of decisions on planning applications and is used to guide decisions on investment and regeneration.

4.2 The development plan for Sandwell currently comprises Sandwell Development and Delivery Development Plan Document (SADDPD), the Black Country Core Strategy (BCCS), West Bromwich, Smethwick and Tipton Area Action Plan (AAP). The BCCS, adopted in 2011, sets a strategy and targets for homes, employment land, retail and offices for the period to 2026. Specific sites to meet these targets are allocated in the SAD and AAPs.

4.3 The BCP will set out land use requirements to roll forward to 2039. National planning policy states that development plans should identify requirements for 15 years from the date of adoption. It is intended that the BCP will be adopted in 2024. The BCP will replace the BCCS but, unlike the BCCS, the BCP will also allocate specific sites for different land uses. It will therefore 'carry forward' some allocations in the SAD but will also allocate additional sites to meet need over the longer time period.

4.4 Preparation of the BCP began in 2016 and consultation on the 'Issues and Options' to be considered in the plan took place in 2017. Since then,



a great deal of work has taken place to examine potential sites to be allocated in the plan, as well as studies of housing need (both the overall number of homes required but also the breakdown between tenure and dwelling size that is likely to be required), the employment land need and supply (including the suitability of existing employment premises for long term retention), and studies of town centres, waste and minerals. These studies, and responses received to the issues and options consultation, have informed the Regulation 18 draft plan.

4.5 As well as allocating sites, the BCP will also replace the existing policies in the BCCS and elsewhere that apply to various existing and proposed land uses. The BCP policies will take account of changes to legislation and national planning policies since the BCCS was adopted, requirements arising from the evidence prepared for the plan and new challenges such as the need to address climate change and enhance provision for nature conservation.

4.6 Following a review of the representations from the previous Regulation 18 consultation three additional sites in Walsall, set out in Appendix A, have been considered potentially suitable for housing and require an additional Regulation 18 consultation. The Sustainability Appraisal prepared for the additional sites is attached as Appendix B.

4.7 This consultation is for the three Walsall sites only and therefore officers from Walsall Council will be leading on the consultation and their proposed approach is set out in Appendix A.

4.8 Local Development Scheme Update 2022

4.9 The initial LDS was approved by the Cabinet Member for Environment and Transport on the 1st February 2005 and has subsequently been revised annually. The last LDS review was approved by Cabinet in September 2021. The LDS sets out the documents that will be prepared by the Council as part of the Development Plan for the Borough.

4.10 Local Planning Authorities are required to prepare their LDS and make it available to the public; however, there is no longer a requirement to submit a report on them to the Secretary of State.

4.11 Local Plan Update - Black Country Plan (BCP)



- 4.12 A plan-led system operates in England, involving the preparation of plans by the Local Planning Authority that set out what can be built and where. Under the current planning system, the Council is required to prepare local plan documents that set out how the local area may change over the next few years.
- 4.13 In Sandwell the Local Plan currently consists of:
- Black Country Core Strategy – adopted 2011
 - Sandwell Site Allocations & Delivery Development Plan Document - adopted 2012
 - West Bromwich Area Action Plan – adopted 2012
 - Smethwick Area Action Plan – adopted 2008
 - Tipton Area Action Plan - adopted 2008
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- 4.14 The existing Core Strategy was adopted in 2011 and provides the framework for various Site Allocation Documents and Area Action Plans, which set out local policies and site allocations for individual authority areas. The existing Strategy has shaped the housing, industrial and retail growth of the area, whilst protecting the environment and greenbelt. It has also been successful in supporting regeneration for the past nine years.
- 4.15 The Sandwell Site Allocations and Delivery Development Plan Document identified sufficient sites and areas to meet the Borough's housing and employment needs, and protects the Borough's historic, built and green infrastructure. The Area Action Plans set out a vision and strategy for the future development of West Bromwich, Smethwick and Tipton and guide future change and development in these areas.
- 4.16 Following consideration of the issues raised during previous public consultation and the evidence produced to date it became clear that the scope of the new BCP would need to be significantly wider than that of the higher level, strategic Core Strategy previously adopted. The BCP will allocate a significant number of development sites, to demonstrate fully how the four authorities are meeting the housing and employment land requirements of the Black Country. ABCA agreed this approach to identifying sites in 2018. This approach will have the benefits of providing greater certainty for investment decisions and funding applications and supporting the delivery of sites where Compulsory Purchase Orders are required.



- 4.17 This means that the BCP now allocates: -
- Sites to be released from the Green Belt (details to be confirmed)
 - All new housing allocations (details to be confirmed)
 - All new employment allocations (details to be confirmed)
 - Any other new allocations for other uses
 - All current housing allocations over 50 units
 - All current employment allocations over 0.4ha
 - All changes to site allocations from existing plans
- 4.18 All site allocations were previously delegated to second-tier plans, such as Site Allocation Documents and Area Action Plans. This means that these extant allocations will also be considered at the Examination in Public and will therefore require the approval of all four Cabinets in the Black Country Authorities for them to be reallocated in the BCP.
- 4.19 This change in scope significantly increases the evidence requirements and complexity of the strategic planning process. However, the burden on second-tier plans will be correspondingly smaller.
- 4.20 The NPPF was revised further in 2021. The presumption in favour of sustainable development has been retained, but for plan-making (paragraph 11a) it has now been updated to have a “greener” focus, including new requirements for development to improve the environment and mitigate climate change.
- 4.21 Due to the impact of COVID19 on the workings of local authorities across the Black Country and beyond, a decision was taken in 2020 by the Association of Black Country Authorities to extend the period for the preparation of the BCP, in recognition of the difficulty of meeting the original schedule. This meant that the timetable was updated to reflect this change, which had implications for the other local plan documents related to it.
- 4.22 As a result, Sandwell’s LDS was updated in September 2021, sooner than anticipated, to ensure that local people and Councillors were in possession of the most accurate timescale for forthcoming plans and documents that will affect them and their environment.
- 4.23 Undertaking the additional Regulation 18 consultation on the three Walsall sites for the BCP has an impact on the timetable for the BCP and will also have a knock-on effect on the timetable for the Sandwell Development Plan (SDP) discussed in para 4.27.



4.24 The following is the proposed amended timetable for the BCP

Focussed consultation on additional sites	July - September 2022
Cabinet/ Council consider Publication Plan (Regulation 19)	October/ November 2022
Regulation 19 Consultation	November – December 2022
Submission	March - May 2023
Examination	April 2023-March 2024
Adoption	Early 2024

4.25 Second-tier Plans – Sandwell Development Plan

4.26 The current second tier of the Local Plan is made up of the Site Allocations & Delivery DPD and the West Bromwich Area Action Plan. Both documents were adopted in December 2012 and cover the period up to 2021. As the Council is committed to reviewing plans every five years, the review of both documents should now be underway. However, as the second-tier plans must be in conformity with the first-tier plan, i.e. the BCP, last year's change in approach and the delay to the BCP review timetable has had a knock-on effect on their review.

4.27 As previously stated in para 4.23, the inclusion of the additional consultation on the additional Walsall sites will have an impact on the BCP and also the SDP. The SDP was to follow the BCP with a gap so there was no overlap of consultation; the timetable for the SDP therefore needs to be amended to reflect the changes to the BCP timetable. The following is the proposed amended timetable for the SDP:

Issues & Options Consultation	Autumn 2022
Draft Plan consultation	Spring 2023
Plan Publication	Spring 2024
Submission to Secretary of State	Autumn 2024
Examination in Public	Early 2025
Adoption	2025

4.28 Adoption of the Sandwell Development Plan will now take place beyond the date of the current plan period. The Planning Inspectorate have advised that current plans can continue to be given weight in decision-making beyond 2021 but from that date they will effectively be treated as being based on out-of-date evidence. Therefore, decisions taken based on the policies in such plans are at increased risk of challenge and, in the



case of refusals, being overturned at appeal. This risk increases with time, so it remains important to prepare an up-to-date local plan as soon as possible.

- 4.29 As explained previously, the BCP will, unlike its predecessor, allocate sites for housing and economic development. As a result, the second-tier plan(s) will not include all the borough's site allocations.
- 4.30 It is therefore proposed to call the reviewed document the *Sandwell Development Plan (SDP)*. This will provide some commonality with the upper tier. The SDP will continue to address development management, nature conservation, open space and other issues and designations along with a number of Sandwell-specific policies, some retained from the current SAD DPD.
- 4.31 The West Bromwich Area Action Plan (WBAAP) forms part of the Statutory Development Plan; it was adopted in 2012 and expires in 2026. In recognition of the levels of cost and time that are needed to pursue a separate Area Action Plan, the inclusion of the revised WBAAP in the new Sandwell Development Plan is being proposed: the WBAAP will form a discrete chapter in the plan. It is also proposed that profiles / insets are provided for Sandwell's other main town centres as part of the same exercise.
- 4.32 The proposals in the WBAAP have largely been delivered. Due to changing market conditions, however, it is now appropriate to adopt an updated and flexible approach to securing further regeneration in the centre. This has been achieved through the production of an Interim Planning Statement and an associated Masterplan, to effectively bridge the gap between the WBAAP and the adoption of its successor document. The interim statement and plan provides certainty for developers bringing forward new schemes.
- 4.33 It is important to note that the Interim Planning Statement and Masterplan for West Bromwich are not part of the statutory development plan and have not therefore been formally adopted; rather, they are a statement of future intent.



5 Alternative Options

- 5.1 If we do not consult on the additional Walsall sites then the BCP could be found un sound at Examination In Public by the Planning Inspector.
- 5.2 Preparation of a LDS is a requirement of the Planning & Compulsory Purchase Act 2004. As such there is no alternative to its preparation.

6 Implications

Resources:	The costs of preparing Black Country Plan is being financed and funded jointly by the Black Country Local Authorities and through an external grant from MHCLG of £560,000. The Local Development Framework for Sandwell, and subsequent Local Development Documents, will be met from existing revenue budgets. The planning policy documents will be produced using existing staff resources within the Planning Policy and Transportation Team in the Spatial Planning and Growth Service Area
Legal and Governance:	The process for the preparation of development plans is set out in the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Planning) (England) Regulations 2012. In accordance with section 15 of the Planning and Compulsory Purchase Act 2004, every local planning authority must prepare planning policy documents and maintain the LDS specifying the documents that will be local development documents, their subject matter and area, and the timetable for their preparation and revision
Risk:	The Council's corporate risk management strategy has been complied with, to identify and assess the risks associated with this decision / recommendation. This has identified that there are no significant risks that need to be reported.
Equality:	An EIA has not been carried out. The LDS is a programme of the documents to be produced over the next three years and does not in itself create policy



Health and Wellbeing:	Health and wellbeing is a key theme addressed throughout the BCP and the documents of the LDS. It will promote healthy living and create opportunities for active lifestyles and healthy transport choices including walking, cycling and outdoor recreation
Social Value	The Black Country Plan and Local Development Scheme will play an important part in delivering the spatial and land use aspects of the Council's vision 2030, particularly as it relates to housing, employment, transport, environment and education goals.

7. Appendices

Appendix A – Additional Housing Regulation 18 Walsall sites to be consulted

Appendix B – Sustainability Appraisal of additional Regulation 18 Walsall sites

Appendix C – Updated Local Development Scheme (LDS) 2022

Appendix D – Local Development Scheme timeline 2022

8. Background Papers

Draft Black Country Plan (<https://blackcountryplan.dudley.gov.uk/bcp/>)

The Sandwell Local Development Scheme

(https://www.sandwell.gov.uk/downloads/download/1934/draft_sandwell_local_development_scheme_lds_2015)

The Planning and Compulsory Purchase Act 2004

The Localism Act 2011

The National Planning Policy Framework (July 2021)

