

Report to Economy, Skills Transport and Environment Scrutiny Board

9 February 2023

Subject:	Sandwell Local Plan – Update, Consultation on Issues & Options and Call for Sites exercise.
Director:	Director Regeneration & Growth Tony McGovern
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1 Recommendations

- 1.1 That the Board notes the updated position regarding preparation of a new Local Plan for Sandwell.
- 1.2 That the Board considers and responds to the questions set out in the Issues & Options document along with any other comments as appropriate.
- 1.3 That the Board notes the Call for Sites exercise currently open and comments as appropriate.

2 Reasons for Recommendations

- 2.1 It is a statutory requirement of every Local Planning Authority to have an up-to-date Local Plan. Government has previously expressed a desire to see full Local Plan coverage across England by December 2023, or as soon as is practical after that date.
- 2.2 At its meeting on 7th December 2022, Cabinet approved the Sandwell Development Plan Issues & Options document for public consultation for six weeks commencing 6th February 2023.



- 2.3 Cabinet also authorised the opening of a ‘Call for Sites’ exercise to run for the same period as the Issues & Options consultation.
- 2.4 Members’ views are sought on the matters set out in the Issues & Options documents and their responses to the questions are welcomed.
- 2.5 The views of the Board will be taken into account in preparing the Draft Local Plan prior to it being submitted to Cabinet for approval to consult later in the year.

3 How does this deliver objectives of the Corporate Plan?

	Best start in life for children and young people – the Local Plan helps to develop policies that will contribute to the delivery of facilities, services and opportunities for children and young people through the local plan process.
	People live well and age well - health and wellbeing is a key theme addressed throughout the documents of the Local Plan. It will promote healthy living and create opportunities for active lifestyles and healthy transport choices including walking, cycling and outdoor recreation.
	Strong resilient communities – the Local Plan will build in effective community involvement and will be important to local communities.
	Quality homes in thriving neighbourhoods – the Local Plan 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.
	A strong and inclusive economy - the Local 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 Local Plan. They will help to deliver sustainable, prosperous



	communities, an integrated transport network and reduce the need to travel by car.
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4 Context and Key Issues

4.1 It is a statutory requirement for every Local Planning Authority to have a current Local Plan; and to review these plans periodically to keep them up-to-date. In Sandwell the Local Plan consists of;

Tier 1 ***Black Country Core Strategy (BCCS)*** prepared jointly with Dudley, Walsall and Wolverhampton. It was adopted in 2011 and runs to 2026

Tier 2 ***Sandwell Site Allocations & Delivery Plan (the SAD)*** which was adopted in 2012 and ran till 2021

West Bromwich Area Action Plan (WBAAP) which was adopted in 2012 and runs to 2026

There are two earlier AAPs covering Smethwick and Tipton, which technically are still relevant. These AAPs, however, were largely absorbed into the SAD on its adoption, and will be superseded fully by the new Sandwell Local Plan.

4.2 The Black Country Core Strategy (BCCS) was adopted in 2011 and forms the upper tier of the Local Plan in Sandwell. Once adopted, the Black Country Plan (BCP) was intended to replace the BCCS, along with elements of the Sandwell Site Allocations & Delivery Plan (the SAD). The remainder of the SAD and the AAPs would have been replaced by a further Tier 2 document, which would have been known as the Sandwell Development Plan.

4.3 The decision to halt the Black Country Plan, together with the age and status of Sandwell's Tier 2 Plans (and associated documents), means that Sandwell needed to commence a full review of its Local Plan as a matter of urgency. This was approved by Cabinet on 16th November.



Housing and Employment land need in Sandwell

- 4.4 The BCP evidence base shows that, by 2039 (the intended horizon year for the BCP), Sandwell will have a need for 27,873 new homes and a minimum of 55ha of new employment land. The last edition of the Urban Capacity Study, which identifies the amount of land available for development, shows that Sandwell only has enough land to deliver around 9,500 new homes resulting in an un-met need of almost 19,000 homes.
- 4.5 Sandwell's housing need is the largest of the four Black Country councils, whilst its supply is the smallest. The table below sets this out;

Housing and Employment Land Shortfalls by BCLA (negative figure indicates surplus capacity against local need)

Local authority	Homes need	Homes supply	Homes Shortfall	Emp. land need (ha)	Emp. land supply (ha)	Emp. Shortfall (ha)
Dudley	11,989	13,235	-1,246	61-137	20	41-117
Sandwell	27,873	9,158	18,715	84-215	29	55-186
Walsall	16,568	13,344	3,224	138-193	164	-26-29
Wolverhampton	19,646	12,100	7,546	110-150	70	40-80

Figures based on supply and need set out in Reg18 Draft BCP and Urban Capacity Report Update. Employment land need is expressed as a range based on either a 'trend-based' or 'growth-based' scenario.

- 4.6 The ABCA decision to halt work on the BCP, and the subsequent need to prepare a comprehensive Sandwell Local Plan as an alternative, means that the end date for the new plan will be 15 years beyond the new projected adoption date and will run to two years beyond the intended end date of the BCP (i.e., to 2041). The housing and employment land need figures for the new Sandwell Local Plan will therefore need to reflect the later adoption date, so will differ from that used in the Black Country Plan (2039).



- 4.7 The housing need versus available land supply clearly results in Sandwell Council being unable to meet around two thirds of its need. The Local Plan will need to demonstrate that every potential site has been considered and all suitable sites allocated. Furthermore, any potential exporting of unmet need to other local authorities would have to be demonstrated through 'Duty to Cooperate' discussions. Evidence previously prepared for the BCP clearly shows that neighbouring authorities can, if willing, help meet this need through the Duty to Cooperate (outlined below).
- 4.8 Demonstrating how the plan seeks to meet Sandwell's housing need is likely to be the most important test of the plan's soundness at examination. It is considered that Sandwell could adequately demonstrate that the supply has been maximised and that the Duty to Cooperate has been adequately discharged, even if this does not result in any of the unmet need being exported to neighbouring authorities.

The Duty to Cooperate (DTC)

- 4.9 The 2011 Localism Act places a legal duty on local planning authorities in England, and other public bodies, to engage constructively, actively and on an ongoing basis to maximise the effectiveness of Local Plan preparation in the context of strategic cross boundary matters, including the agreed exporting of a proportion of one council's unmet housing need to other councils (where they have surplus housing supply over and above their own needs). It is not, however, a 'duty to agree'. Failure to comply with the duty will result in plans not being approved, but it is not a failure of the process should agreement with other councils not be forthcoming.
- 4.10 In effect, the duty was discharged as far as the Black Country LAs are concerned through the preparation of a joint Local Plan and through joint DTC conversations with other authorities. With the abandonment of the BCP, this is no longer the case. Sandwell will therefore need to hold DTC discussions with nearby local authorities and a number of other public bodies, such as WMCA /TfWM, National Highways etc.



4.11 As shown in the table at paragraph 4.5, both Walsall and Wolverhampton also have significant levels of unmet need, as does Birmingham City Council. An agreement on how surplus supply in adjacent areas is apportioned will form a crucial element of ongoing DTC discussions.

The Local Plan Process

4.12 The process for preparing a Local Plan consists of the following stages;

- *Evidence gathering* – underway and ongoing through to Submission stage.
- *Issues & Options Stage* – Effectively a scoping exercise giving residents, land owners and other interested parties and opportunity to comment on what the plan should address.
- *Call for Sites* – An opportunity for interested parties to suggest sites that could be included in the plan.
- *Draft Plan* – The first version of the Plan setting out proposed policies and identifying sites for specific purposes.
- *Submission Plan* – The final version of the Plan for submission to Government.
- *Examination in Public (EIP)* – An examination of the Plan held in public by an independent Planning Inspector. The Inspector can either find the Plan ‘sound’ so it can be adopted, recommend changes, or find it ‘unsound’ in which case it needs to be re-worked.
- *Adoption* – The council approves the Plan and it becomes policy and the basis for all planning decisions.

The timetable for preparation of the Sandwell Local Plan is;

7 th December 2022	Cabinet approval to consult on an Issues & Options paper and open a Call for Sites exercise
February - March 2022	Six-week Issues & Options consultation and Call for Sites
March – August 2023	Draft Plan preparation



September 2023	Cabinet approval to consult on Draft Plan
October - December 2023	Six-week Draft Plan consultation (Reg18)
January – June 2024	Consideration of representations and Submission Plan preparation
July 2024	Cabinet and Full Council approval to consult on Submission Plan (Reg19) and then submission to Secretary of State
September – October 2024	Six-week Submission Plan consultation (Reg19)
November 2024	Submit the Plan and representations to the Secretary of State
December 2024 – Summer 2025	Window for holding the Examination in Public (likely to be a 2-3-week hearing), followed by Inspector's report
Late 2025 /early 2026	Adoption at Full Council (assuming plan has been found 'sound')

Future Government Planning Policy

- 4.13 The last Queen's Speech included the 'Levelling Up & Regeneration Bill' (the LURB). The bill is now passing through the parliamentary process. It proposes significant changes to the planning system, with implications both for how a Local Plan is prepared and what it should cover. It also seeks to abolish the 'Duty to Cooperate', although as yet, there is no detail as to what is intended to replace it. In addition to the LURB, on 23rd December the Government published proposed changes to the National Planning Policy Framework (NPPF).
- 4.14 Through the combination of the LURB and a modified NPPF, the Government intends to abolish mandatory housing targets, alter the methodology for calculating housing need and afford greater protection to the Green Belt, whilst retaining the ambition nationally to deliver 300,000 new homes per annum. LPAs will still be required to establish their local housing need, which would have to be justified at an Examination in Public. However, unmet housing need would no longer be considered an 'exceptional circumstance' that would warrant a review of the Green Belt and the allocation of land in it to provide additional housing capacity.



4.15 Both ministers and senior officials of the Department for Levelling Up, Housing & Communities (DLUHC) have reiterated that LPAs should not pause Local Plan reviews to await the introduction of these changes but should continue under the current legislation and regulations to adopt up-to-date plans by December 2023, or as soon as is reasonably practical after that date. However, should the proposed changes to the NPPF come into effect prior to the LURB becoming law, these will have to be reflected in future stages of the Sandwell Local Plan as it progresses.

Issues & Options

4.16 The 16th November Cabinet decision was followed by a Cabinet approval on 7th December 2022 to enable the first stages of the Local Plan process to take place. These are the Issues & Options consultation and Call for Sites exercise.

4.17 The Issues & Options consultation is a scoping exercise that seeks to involve local people, businesses and other stakeholders in identifying what the new plan should address. It provides an initial opportunity for interested parties, the public and stakeholders to engage in the process, and to help inform the next stage of the plan.

4.18 The Issues & Options document sets out the context in which the plan is being prepared, and outlines the amounts of new development, such as housing and employment land, that is needed. It also seeks the views of the communities and stakeholders of Sandwell on what they think the key land use issues are for the borough.

4.19 It asks a series of questions about key topic areas and seeks feedback on how the following should be addressed;

- Links to wider Council objectives
- Tackling climate change
- Housing need
- Creating healthy communities



- Thriving towns
- Supporting the economy
- Employment needs
- Infrastructure needs
- Protecting and enhancing the environment

A list of the questions cross-referenced to the relevant sections of the Issues & Options document is contained at Appendix D.

- 4.20 An important point to note is that the Issues & Options document does not detail proposed policies, nor does it seek to allocate development sites. This would be done at the next stage of plan preparation, following consideration of the responses to this consultation.
- 4.21 The consultation responses will be reviewed in detail and used to inform the next iteration of the plan, particularly in helping to draft policies to address issues and topics identified by local people in relation to future land use and development.
- 4.22 Preparation of the Local Plan includes the carrying out of an integrated Sustainability Appraisal (see Appendix C) at each formal stage, and at later stages, an Equality Impact Assessment and Health Impact Assessment. The Local Plan will seek to ensure that sufficient homes, shops, employment land, along with social and recreational facilities, are planned and provided for to meet the needs of Sandwell during the period that the Plan covers (i.e. up to 2041). This will include meeting the needs of children and young people by seeking to provide sufficient facilities for them, as well as having a positive impact on future generations.
- 4.23 A consultation and engagement programme (attached at Appendix B) has been prepared for this stage of the plan's preparation. It will continue to be developed for later stages of the plan. A consultation database has been established, which will enable easier follow-up consultation to take place with all interested parties.
- 4.24 The key elements of the current consultation are;



- A Press release announcing the start of the consultation period - to raise awareness.
- Promotion through local media.
- Leaflet summarising key information - available at Libraries and other Council buildings, and online.
- Use of social media and a branded web page - to help engagement.

This variety of approaches will help to broaden the consultation catchment to help encourage more responses to the consultation.

4.25 The consultation material is displayed in the reception area at the Council House in Oldbury and officers are available to answer questions throughout the full six weeks of the consultation period. Information, leaflets etc. will also be available in libraries and other Council offices that are open to the public.

4.26 Future stages of public consultation on the draft plan itself will be arranged, which will each run for a minimum of six weeks and will include drop-in events across all six towns, enabling residents to view the proposals maps and discuss the Plan with officers.

Call for Sites

4.27 A key part of this stage of the plan's preparation is the 'Call for Sites'. This is an opportunity for anybody, including land owners and potential developers, to suggest sites to the Council that could either be developed, or used for specific purposes, such as the provision of Biodiversity Net Gain. The Council and other public bodies will also be expected to review their land assets to see if they can contribute towards meeting development need, through the release of sites /assets.

4.28 A previous 'Call for Sites' took place between July and September 2017, and again in August 2020, as part of the BCP preparation. Whilst it is likely that many sites will have been identified at that point, it is both appropriate and prudent to provide a further opportunity to ensure that no potential



sites are missed, and to make sure that landowners who agreed to reallocation at that time have not subsequently changed their minds.

- 4.29 The 'Call for Sites' exercise is running concurrently with the 'Issues & Options' consultation. Any sites put forward will be assessed and considered for inclusion in the Draft Plan.



5 Implications

Resources:	The resource implications of preparing the Sandwell Local plan were outlined in the cabinet report on 16 th November. This included the costs of preparing and consulting on the Issues & Options document and the Call for Sites. There are no additional resource implications arising from the course of action recommended in this report.
Legal and Governance:	<p>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.</p> <p>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 Local Development Scheme, specifying the documents that will be local development documents; their subject matter and area; and the timetable for their preparation and revision.</p> <p>There are three consultation periods that are statutory requirements of The Town and Country Planning (Local Planning) (England) Regulations 2012; Issues and Options consultation (Regulation 18); Preferred Options /Draft Plan consultation (Regulation 18) and Publication/Pre-submission consultation (Regulation 19).</p>
Risk:	<p>The Council's corporate risk management strategy has been complied with, to identify and assess the risks associated with this decision/recommendation. The following should be noted;</p> <p>Failure to have a Local Plan that is 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 support the economic and environmental well-being</p>



	<p>of the area. It could also result in development taking place in inappropriate or harmful locations, leading to an inefficient use of resources, traffic congestion and other harm.</p> <p>Having an up-to-date Local Plan in place is also essential to defend the Council's position at planning appeals. In the event of the Council not having, or working towards, an up-to-date Local Plan, there is a risk of intervention from Central Government which may compromise the ability to take decisions locally.</p>
Equality:	An Equalities Impact Assessment has been carried out for the Issues and Options document and further iterations will be completed at later stages of the plan's production. This ensures that any impacts likely to affect local communities / groups / individuals can be taken into account when decisions are made on the content and direction of the Local Plan.
Health and Wellbeing:	<p>Health and wellbeing is a key theme which will be addressed throughout the Local Plan. It will promote healthy living and create opportunities for active lifestyles and healthy transport choices including walking, cycling and outdoor recreation.</p> <p>Later stages of the plan will be accompanied by a Health Impact Assessment.</p>
Social Value:	The Local Plan 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.
Climate Change:	The Local Plan will contain a suite of new policies designed to help Sandwell mitigate and adapt to the changing climate at a strategic and local level, in line with the Council's adopted Climate Change Strategy. It will ensure new development takes a proactive approach to climate change mitigation, adaptation and



	carbon reduction, and that development is resilient to climate change.
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6 Appendices

- Appendix A - Sandwell Development Plan Issues & Options Document.
- Appendix B - Draft Consultation and Stakeholder Engagement Plan.
- Appendix C - Integrated Sustainability Appraisal Report.
- Appendix D - Summary of Issues & Options questions.

7. Background Papers

The Planning and Compulsory Purchase Act 2004
The Localism Act 2011
The National Planning Policy Framework (July 2021)
Report to Cabinet – 16:11:22
Sandwell Local Development Scheme (November 2022)
Report to Cabinet – 07:12:22

