

Time 5.00 pm **Public Meeting?** YES **Type of meeting** Executive
Venue Council Chamber - 4th Floor - Civic Centre; St Peter's Square, Wolverhampton.
WV1 1SH

Membership

Chair Cllr Ian Brookfield (Lab)
Vice-Chair Cllr Stephen Simkins (Lab)

Labour

Cllr Obaida Ahmed
Cllr Paula Brookfield
Cllr Chris Burden
Cllr Steve Evans
Cllr Bhupinder Gakhal
Cllr Jasbir Jaspal
Cllr Linda Leach
Cllr Beverley Momenabadi

Quorum for this meeting is three voting members.

Information for the Public

If you have any queries about this meeting, please contact the Democratic Services team:

Contact Dereck Francis
Tel/Email Tel: 01902 555835 or dereck.francis@wolverhampton.gov.uk
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Some items are discussed in private because of their confidential or commercial nature. These reports are not available to the public.

Agenda

Part 1 – items open to the press and public

Item No. *Title*

MEETING BUSINESS ITEMS

- 1 **Apologies for absence**
- 2 **Declaration of interests**
- 3 **Minutes of the previous meeting** (Pages 3 - 10)
[For approval]

DECISION ITEMS (AMBER - DELEGATED TO THE CABINET)

- 4 **South Staffordshire, Stafford and Birmingham Local Plan Consultation Responses** (Pages 11 - 40)
[To approve the Council's responses to consultations on the Regulation 19 South Staffordshire Local Plan; the Stafford Local Plan – Preferred Options; and the Birmingham Local Plan – Issues and Options]
- 5 **City of Wolverhampton Council Enforcement Policy in Relation to the Relevant Letting Agency Legislation** (Pages 41 - 66)
[To approve an enforcement policy in relation to relevant Letting Agency Legislation]
- 6 **Expansion of Broadmeadow Special School** (Pages 67 - 74)
[To approve funding for additional accommodation to meet pupil need and demand at Broadmeadow Special School]

Part 2 - exempt items, closed to press and public

- 7 **Exclusion of press and public**
[To pass the following resolution:

That in accordance with Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following item of business as it involves the likely disclosure of exempt information on the grounds shown below]

- 8 **Update on Streamlining Black Country Ways of Working – Black Country Consortium Ltd** (Pages 75 - 86)
[To provide an update on streamlining ways of working across the Black Country]
- | | | |
|--|---|--------|
| | Information relating to the financial or business affairs of any particular person (including the authority holding that information) | (1, 3) |
|--|---|--------|

CITY OF WOLVERHAMPTON COUNCIL	Meeting of the Cabinet Minutes - 16 November 2022
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Attendance

Members of the Cabinet

Cllr Ian Brookfield (Chair)
Cllr Stephen Simkins (Vice-Chair)
Cllr Obaida Ahmed
Cllr Paula Brookfield
Cllr Chris Burden
Cllr Steve Evans
Cllr Bhupinder Gakhal
Cllr Jasbir Jaspal
Cllr Linda Leach

Employees

Mark Taylor	Deputy Chief Executive
Charlotte Johns	Director of Strategy
Claire Nye	Director of Finance
David Pattison	Chief Operating Officer
John Roseblade	Director of City Housing and Environment
Becky Wilkinson	Director of Adult Social Services
Brenda Wile	Deputy Director of Education
Jaswinder Kaur	Democratic Services Manager
Dereck Francis	Democratic Services Officer

Part 1 – items open to the press and public

- | <i>Item No.</i> | <i>Title</i> |
|-----------------|---|
| 1 | Apologies for absence
Apologies for absence were submitted on behalf of Councillor Beverley Momenabadi. |
| 2 | Declaration of interests

Councillor Stephen Simkins declared a disclosable non-pecuniary interest in item 7 (Playing Pitch and Outdoor Sport Strategy) insofar as he is a Board Member on Bilston Town Community Football Club. |
| 3 | Minutes of the previous meeting
Resolved:
That the minutes of the previous meetings held on 19 and 26 October 2022 be approved as a correct record and signed by the Chair. |

4

Capital Programme 2022-2023 to 2026-2027 Quarter Two Review

Councillor Obaida Ahmed presented the report on an update on the 2022-2023 financial performance of the capital programmes as at quarter two for both the General Fund and the Housing Revenue Account, including a revised forecast for 2022-2023 to 2026-2027. The report also set out revisions to the current approved capital programmes covering the period 2022-2023 to 2026-2027 for recommendation to Full Council. Councillor Ahmed informed Cabinet that the Council continued to use the capital programme wisely to invest in the Council's priorities for the city in regeneration, school buildings, the road networks, ICT and the housing estate. The capital programme includes significant investment programmes that endeavoured to create an environment where new and existing businesses could thrive, people could develop skills they needed to secure jobs, and create neighbourhoods in which people are proud to live.

Resolved:

That Council be recommended to approve:

1. The revised, medium term General Revenue Account capital programme of £338.8 million, an increase of £27.9 million from the previously approved programme, and the change in associated resources.

That Cabinet approves:

1. The virements for the General Revenue Account capital programme detailed at Appendix 4 to the report for:
 - i. existing projects totalling £2.8 million.
 - ii. new projects totalling £899,000.
2. The virements for the Housing Revenue Account capital programme detailed at Appendix 4 to the report for:
 - i. existing projects totalling £15.3 million.

That Cabinet notes:

1. That there are two separate reports also on today's agenda, titled as follows:
 - Secondary School Expansion Programme 2023
 - Stow Heath Primary School Proposed Resource Base

These reports are not currently seeking budget approval, however, they are seeking approval to delegate authority to allocate budgets once further detail is known. Any approvals would be built into future reports to councillors.

5

Treasury Management Activity Monitoring - Mid Year Review 2022-2023

Councillor Obaida Ahmed presented the Treasury Management report for recommendation to Full Council for approval. The report set out the results of treasury management activities for both the General Fund and Housing Revenue Account (HRA) carried out in the second quarter of 2022- 2023, together with performance against the Prudential Indicators previously proved by Council. The Council continued to operate within its overall approved Prudential and Treasury Management Indicators during 2022-2023. The Council had built up a strong track record of managing its finances well and in order to reduce interest payment costs its strategy was to only undertake external borrowing when cash flows required it. The Council had not had to undertake any new external borrowing so far in 2022-2023 and the last time the Council carried out external borrowing was March 2019. The Council's external borrowing remained at £720.4 million. From current forecasts an

underspend was projected on treasury management activities on the General Fund of £3.4 million and an overspend of £996,000 for the HRA.

Resolved:

That Council be asked to note:

1. That a mid-year review of the Treasury Management Strategy Statement has been undertaken and the Council has operated within the limits and requirements approved in March 2022.
2. That a revenue underspend of £3.4 million for the General Fund and a revenue overspend of £996,000 for the Housing Revenue Account (HRA) are forecast from treasury management activities in 2022-2023.

That Cabinet notes:

1. That the outcome of the Chartered Institute of Public Finance and Accountancy (CIPFA) consultation on proposals to update the CIPFA Code of Practice on Local Authority Accounting for infrastructure assets is still to be finalised.

6 **Performance and Budget Monitoring 2022-2023**

Councillor Obaida Ahmed presented the report on an integrated finance and performance update against the Our City: Our Plan priorities. Amongst the salient points highlighted were, the Council had strengthened the links between performance, budget and risk to ensure that it was robustly monitoring delivery of the Council's priorities underpinned by its resources. Of the current 56 key performance indicators (KPIs) in the Our City: Our Plan performance framework, 33 had shown improvement or seen similar performance, six had seen a decrease in performance and 17 were yet to be updated. On the financial performance against the budget, the projected out turn for the General Fund was forecasting an overspend of £1.5 million, mainly due to the forecast in year cost implications of the recently announced pay award. The Housing Revenue Account was showing a forecast cost pressure against the approved budget of £3.2 million because Wolverhampton Homes in particular having a substantial workforce and increasing costs due to repair demands. In addition there was an increase in the forecast interest payable linked to the capital programme

Resolved:

That Cabinet approves:

1. The establishment of supplementary expenditure budgets for 2022-2023 as detailed in section 7.0 of the report.
2. The use of £380,000 from the Budget Contingency Reserve as detailed in paragraph 8.4 of the report and the establishment of associated supplementary budgets.
3. The use of £80,800 from the Regeneration Reserve as detailed in paragraph 8.5 of the report and the establishment of associated supplementary budgets.
4. The use of £95,000 from the Digital Inclusion Reserve as detailed in paragraph 8.6 of the report and the establishment of associated supplementary budgets.

5. The contribution of £285,800 to the Licencing Reserve as detailed in paragraph 8.7 of the report.
6. The use of £116,000 from the Our Technology Reserve as detailed in paragraph 8.8 of the report and the establishment of associated supplementary budgets.
7. The use of £64,000 from the Private Sector Housing - Civil Penalties Reserve as detailed in paragraph 8.9 of the report and the establishment of associated supplementary budgets.
8. The use of £2.0 million from the Public Health Reserve as detailed in paragraph 8.10 of the report and the establishment of associated supplementary budgets.
9. The write-off of one sundry debt totalling £13,160.87 as detailed in Appendix 8 to the report.
10. The write-off of two Non-Domestic Rates (NDR) debts totalling £19,511.33 as detailed in Appendix 9 to the report.
11. The 31 virements totalling £154.6 million, for transfers within directorates, as detailed in Appendix 10 to the report.
12. The Strategic Risk Register which is shown at Appendix 3 to the report.
13. That authority be delegated to the Cabinet Member for City Assets and Housing and the Cabinet Member for Resources and Digital City, in consultation with the Director of City Housing and Environment and the Director of Finance to negotiate and finalise any changes required to the 2022-2023 management fee payable to Wolverhampton Homes and approve any necessary virements.
14. That authority be delegated to the Cabinet Member for Resources and Digital City in consultation with the Director of Finance to approve any necessary virements required to support the pay award and allocation of the Efficiency target and Vacancy factor held corporately.

That Cabinet notes:

1. That the General Fund projected outturn for 2022-2023 is currently forecast to be an overspend of £1.5 million due to the forecast impact of the proposed pay award for 2022-2023 as detailed in section 4 of the report.
2. The forecast outturn position for the year for the HRA shows a pressure against the approved budget of £3.2 million, as shown at Table 2 and in detail at Appendix 5 to the report.
3. That 393 Council Tax accounts totalling £256,204.26, as detailed in Appendix 7 to the report, have been approved for write-off by the Director of Finance in accordance with the Council's Financial Procedure Rules.

4. That 18 Non-Domestic Rates (NDR) debts totalling £148,382.50, as detailed in Appendix 7 to the report, have been approved for write-off by the Director of Finance in accordance with the Council's Financial Procedure Rules.
5. That 11 housing benefit overpayments totalling £2,487.92 as detailed in Appendix 7 to the report, have been approved for write-off by the Director of Finance in accordance with the Council's Financial Procedure Rules.
6. That one sundry debt account totalling £168.00, as detailed in Appendix 7 to the report, have been approved for write-off by the Director of Finance in accordance with the Council's Financial Procedure Rules.
7. The performance against the key indicators as set out in Appendix 1 to the report.

7 **Playing Pitch and Outdoor Sport Strategy**

Councillor Stephen Simkins presented the report on an up to date City of Wolverhampton Playing Pitch and Outdoor Sports Strategy (PPOSS). The Strategy would direct investment and planning decisions on playing pitches and outdoor sports across the city in future years; help the Council to secure external funding, including developer contributions; and release surplus assets to maximise local community and regeneration benefits.

Linked to the strategy, Councillor Ian Brookfield reported that last week it was announced that the West Midlands and Wolverhampton had been given the honour of hosting the first Kabaddi World Cup tournament outside of Asia in February 2025. During the announcement Councillor Brookfield was presented with a trophy that he agreed to present to Cabinet. Winning the right to host the 2025 Kabaddi World Cup built on the successful launch of the British Kabaddi League in Wolverhampton last spring together with partners England Kabaddi and Scotland Kabaddi.

Resolved:

1. That the City of Wolverhampton Playing Pitch and Outdoor Sports Strategy (PPOSS) and Action Plan (2022) be adopted.
2. That authority be delegated to the Deputy Leader: Inclusive City Economy, in consultation with the Director of Regeneration, to agree the final version of the Overarching Strategic Framework for the Black Country (2022).
3. That the supporting Wolverhampton Playing Pitch Assessment Report (2022) be noted.

8 **Stow Heath Primary School - Proposed Resource Base**

Councillor Chris Burden presented the report on the proposal to establish a special educational needs and/or disabilities (SEND) resource based at Stow Heath Primary School. The proposal would enhance the local educational offer for children and young people with SEND.

Cabinet members welcomed the proposal, and the opportunities it would provide for people in the area and that part of the city, receiving specialist support where they need it. Families would no longer have to travel long distances across the city to access that specialist support, and children would be attending a mainstream school

with the specialist support they need with their siblings and friends and near their family.

Resolved:

1. That authority be delegated to the Cabinet Member for Education, Skills and Work, in consultation with the Executive Director of Families, to approve the allocation from the High Needs Capital Fund to the Stow Heath capital project in order that it may be progressed in a timely manner.
2. That the commencement of a period of Initial Consultation required under statutory processes on the proposed establishment of a Special Educational Needs and/or Disabilities (SEND) Resource Base at Stow Heath Primary School be approved.
3. That authority be delegated to the Cabinet Member for Education, Skills and Work in consultation with the Executive Director of Families, to consider the outcome of Initial Consultation on the proposed establishment of a SEND Resource Base at Stow Heath Primary School and to determine whether to proceed to Formal Consultation (Representation).
4. That the Council be authorised to enter into all legal agreements in relation to this scheme.
5. That authority be delegated to the Cabinet Member for Education, Skills and Work in consultation with the Executive Director of Families to approve the details of all agreements authorised under recommendation 4 of the report.
6. That it be noted that the outcomes of both Initial and Formal Consultation on the establishment of Resource Provision at Stow Heath Primary School would be presented at a future Cabinet meeting for a final decision.

9

Secondary School Expansion Programme 2023

Councillor Chris Burden presented the report on the proposed Secondary School Expansion Programme 2023 comprising, Colton Hills Community School, St. Mattias School and Ormiston SWB Academy (two maintained schools and an academy). The programme would expand the city's available number of year seven spaces within the settings and deliver an extra 89 spaces across the city allowing for capacity to stand 2.3% excess of places. The three schools were judged by Ofsted as 'continued to be good'.

Resolved:

1. That the formal proposal for schools to be included in the Secondary School Expansion Programme 2023 be approved.
2. That the Secondary School Expansion Programme 2023 to provide temporary solutions to meet short term demand to ensure that an oversupply of school places is not created be approved.
3. That it be noted that the budget for the expansion scheme at Colton Hills Community School would be approved via existing approved delegation, once the required budget is finalised.

4. That it be noted that in light of the scale of recent secondary expansion programmes practical opportunities to continue to expand the existing estate are constrained.
5. That it be noted that the Council is not in full control of all the factors relating to the effective and timely supply of school places.

10

Citywide Non-traditional Property Investment and Regeneration Programme - Procurement of a contractor and progress update

Councillor Bhupinder Gakhel presented the report on an update on progress being made with phase one of redevelopment proposals for three estates with Tarran bungalows (prefabs) across the city. Approval was requested for a budget for the redevelopment of the Tarran Bungalow estates as phase one of the Non-Traditional Property Re-development.

Cabinet praised the way council officers had conducted the consultations with residents of the Tarran bungalows within Wednesfield and Portobello and how the decanting of families would be managed during the project.

Resolved:

1. That a budget of £25.0 million for the redevelopment of the Tarran Bungalow estates as Phase One of the Non-Traditional Property Re-development project be approved.
2. That the procurement to appoint a contractor to deliver the proposals for Phase One of the Non-Traditional Property Re-development Project be approved.
3. That authority be delegated to the Cabinet Member for City Assets and Housing in consultation with Director of City Housing and Environment to appoint the most appropriate contractor for Phase One of the Non-Traditional Property Re-development Project following the completion of the procurement exercise.
4. That further reports on the future phase of the regeneration proposals for non-traditional properties be received.
5. That holding any new non-traditional void properties which are included in the investment programme to allow investigation surveys to be undertaken to support the design options for decarbonisation be approved.
6. That further reports on the progress made on the future phases within the investment programme to deliver improvements to the remaining non-traditional properties be received.
7. That the progress made on delivering the re-development proposals for the Tarran bungalow (prefabs) estates (Phase One) be noted.
8. That the progress made regarding customer engagement for the Tarran bungalow estates (Phase One) across the city be noted.

9. That the progress made on delivering the phased investment programme to improve the condition of non-traditional properties owned by the Council throughout the city be noted.

CITY OF WOLVERHAMPTON COUNCIL	Cabinet 14 December 2022
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Report title	South Staffordshire, Stafford and Birmingham Local Plan Consultation Responses	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Stephen Simkins Deputy Leader: Inclusive City Economy	
Key decision	Yes	
In forward plan	Yes	
Wards affected	All Wards	
Accountable Director	Richard Lawrence, Director of Regeneration	
Originating service	City Planning	
Accountable employee	Michele Ross	Lead Planning Manager
	Tel	01902 550438
	Email	Michele.ross@wolverhampton.gov.uk
Report to be considered by	Regeneration Leadership Team	21 November 2022
	Strategic Executive Board	22 November 2022

Recommendations for decision:

The Cabinet is recommended to:

1. Approve the principles set out in paragraph 3.24 of this report as the basis of the Council's response to the South Staffordshire Local Plan (SSLP) Regulation 19 consultation.
2. Approve the recommended issues set out in Appendix 1 as the basis of the text of Statements of Common Ground (SoCG) on the SSLP to be agreed with South Staffordshire District Council (SSDC) and other relevant parties, and delegate authority to approve and sign the SoCG to the Deputy Leader: Inclusive City Economy in consultation with the Director of Regeneration.
3. Approve the interim officer response set out in Appendix 2 as the Council's response to the Stafford Local Plan (SLP) Preferred Options consultation.
4. Approve the interim officer response set out in Appendix 3 as the Council's response to the Birmingham Local Plan (BLP) Issues and Options consultation.

Recommendation for noting:

The Cabinet is asked to note:

1. The Wolverhampton approach to the duty to cooperate following the cessation of work on the Black Country Plan as summarised in section 2.

1.0 Purpose

- 1.1 To summarise the contents of consultation on: the South Staffordshire Local Plan (SSLP) - Regulation 19; the Stafford Local Plan (SLP) - Preferred Options; and the Birmingham Local Plan (BLP) - Issues and Options. To seek approval of principles for a Council response to the SSLP and Statements of Common Ground (SoCG) on the SSLP, and of detailed responses to the SLP and BLP.

2.0 Background

- 2.1 In October 2022 the four Black Country authorities (BCA) agreed to cease working on the Black Country Plan (BCP) and to progress individual Local Plans. This decision was confirmed for City of Wolverhampton Council (CWC) through Cabinet approval on 26 October for a new Local Development Scheme setting out the programme for the preparation of a Wolverhampton Local Plan (WLP). This followed Dudley MBC's unilateral statement that it would withdraw following six years of work on the BCP on the basis of non-planning reasons. The end of work on the BCP has implications for the way in which the BCA undertake the duty to cooperate (DtC) – a legal requirement for Councils to engage with each other on cross-boundary issues to support the preparation of Local Plans.
- 2.2 To date, strategic DtC activity, including responses to Local Plan consultations for neighbouring authorities, has been led by the Association of Black Country Authorities (ABCA) on behalf of the BCA. The key objective of this engagement has been to ensure that neighbouring Local Plans respond positively to the housing and employment land shortfalls of some 27,000 homes and 210ha of employment land across the Black Country as a whole up to 2039, through the allocation of land in those Local Plans to meet Black Country needs. The ABCA responses have been supplemented by individual Council responses on specific issues.
- 2.3 Going forward, as the BCA prepare their own Local Plans, it is appropriate for DtC activity to be the responsibility of the individual BCAs, with ABCA having a role as a forum to discuss issues of strategic cross-boundary significance where appropriate. This means that CWC will now respond directly to all Local Plan consultations for relevant neighbouring authorities, following Cabinet approval. In some cases, responses will need to be prepared in the context of previous ABCA representations, but recognising the specific dynamics of housing and employment land need and supply for the emerging WLP and the functional relationship of the City to individual Local Plan areas.
- 2.4 The evidence prepared to support the BCP shows that housing and employment land shortfalls are not distributed evenly across the BCA. In the case of housing, the majority of the shortfall arises in Sandwell, but with a significant shortfall in Wolverhampton (7,900 homes). In the case of employment land, the approach is more complex, as Government guidance requires Councils to assess economic development needs across Functional Economic Areas (FEMAs). In the case of the Black Country, the evidence identifies the BCA as being a single FEMA but with strong economic ties to Staffordshire and

Birmingham. This means that individual Local Plans should seek to identify and address needs arising in both the Local Plan area itself, and across the FEMA as a whole. The published evidence identifies a Wolverhampton employment land shortfall of between 40ha and 80ha.

- 2.5 This report summarises the implications of three Local Plan consultations for Wolverhampton – South Staffordshire, Stafford and Birmingham.

South Staffordshire Local Plan

- 2.6 The South Staffordshire Site Allocations Document (2018) included a commitment to carry out an immediate review to address longer term development needs up to 2037, including those arising from the Greater Birmingham and Black Country Housing Market Area (HMA). In 2018, South Staffordshire District Council (SSDC) published a SSLP Issues and Options consultation with a preferred option to meet local housing needs and contribute 4,000 homes towards the HMA shortfall, based on the minimum capacity of the four areas of search identified for South Staffordshire in the HMA Strategic Growth Study (2018). The consultation set out six spatial options for delivery of the preferred housing option and potential employment land requirements. The CWC and ABCA responses to the consultation supported the preferred option and a mix of spatial options which would deliver a proportionate amount of housing on the edge of the Black Country in line with the HMA Strategic Growth Study areas of search, subject to a joint Green Belt Assessment and other evidence.
- 2.7 In October 2019, SSDC published a SSLP Spatial Housing Strategy and Infrastructure Delivery consultation, supported by a Green Belt Assessment. This set out a preferred spatial housing option G, which was “infrastructure-led”. The CWC and ABCA responses to the consultation supported and recognised the approach used to select the preferred housing option. CWC also requested that a range of potential infrastructure impacts of housing sites located close to the Wolverhampton border should be fully taken into account in consultation with CWC at the earliest opportunity.
- 2.8 In November 2021, SSDC published a SSLP Preferred Options consultation which set out preferred housing and employment site allocations and policy directions and was supported by an updated Infrastructure Delivery Plan. The allocations largely followed the preferred spatial housing option, but with significantly fewer homes proposed on the western edge of the Black Country. Significant extensions were proposed to the Wolverhampton urban area at Linthouse Lane, Langley Road and Cross Green/ROF Featherstone, with a commitment to work cross-boundary on infrastructure requirements. The CWC and ABCA consultation responses supported the preferred housing growth option of local housing need plus 4,000 homes to meet HMA need, whilst requesting that this should be allocated to the Black Country alone, and requested completion of South Staffordshire employment evidence as soon as possible to allow consideration of how far the SSLP could meet unmet Black Country employment land needs. The CWC response made a number of detailed requests relating to cross-boundary infrastructure impacts on

the three extension sites, covering transport, education, health, affordable housing and green infrastructure.

- 2.9 On 11 November 2022, SSDC published a SSLP - Regulation 19 for consultation which sets out detailed housing and employment site allocations and policies, with a response deadline of 23 December 2022. At Regulation 19 stage, responses must relate to two tests: (1) if the Plan has been prepared in a manner which is legally compliant and meets the DtC; and (2) if the Plan is “sound” i.e. positively prepared, justified, effective and consistent with national policy. Responses will be sent to the Secretary of State when the Regulation 19 Plan is submitted for examination in early 2023. SSDC has also requested that CWC complete a number of SoCG regarding the SSLP to demonstrate that the DtC has been met, which will require delegated approval.

Stafford Local Plan

- 2.10 In 2021, ABCA responded to the Stafford Local Plan (SLP) Issues and Options consultation. This response requested that the SLP should promote growth options in excess of local needs in order to provide housing and employment land which could meet needs arising in the Black Country. The representations specifically highlighted the role of a proposed new settlement at Meecebrook as being well-placed to meet housing needs, subject to significant infrastructure investment to increase accessibility. ABCA requested 1,500-2,000 homes and 35-40ha of employment land to meet Black Country needs.
- 2.11 The SLP Preferred Options has now been issued for consultation. The deadline for responses was 12 December 2022, therefore an interim officer response has been submitted, attached as Appendix 2, subject to Cabinet approval.

Birmingham Local Plan

- 2.12 Birmingham City Council (BCC) have started a review of the Birmingham Local Plan (BLP) with an Issues and Options consultation. The deadline for responses was 5 December 2022, therefore an interim officer response has been submitted subject to Cabinet approval, which is attached as Appendix 3. The key elements of the consultation relevant to Wolverhampton are the scale of housing and employment land needs, the supply of land to meet these needs and the associated shortfall.

3.0 South Staffordshire Local Plan – Regulation 19

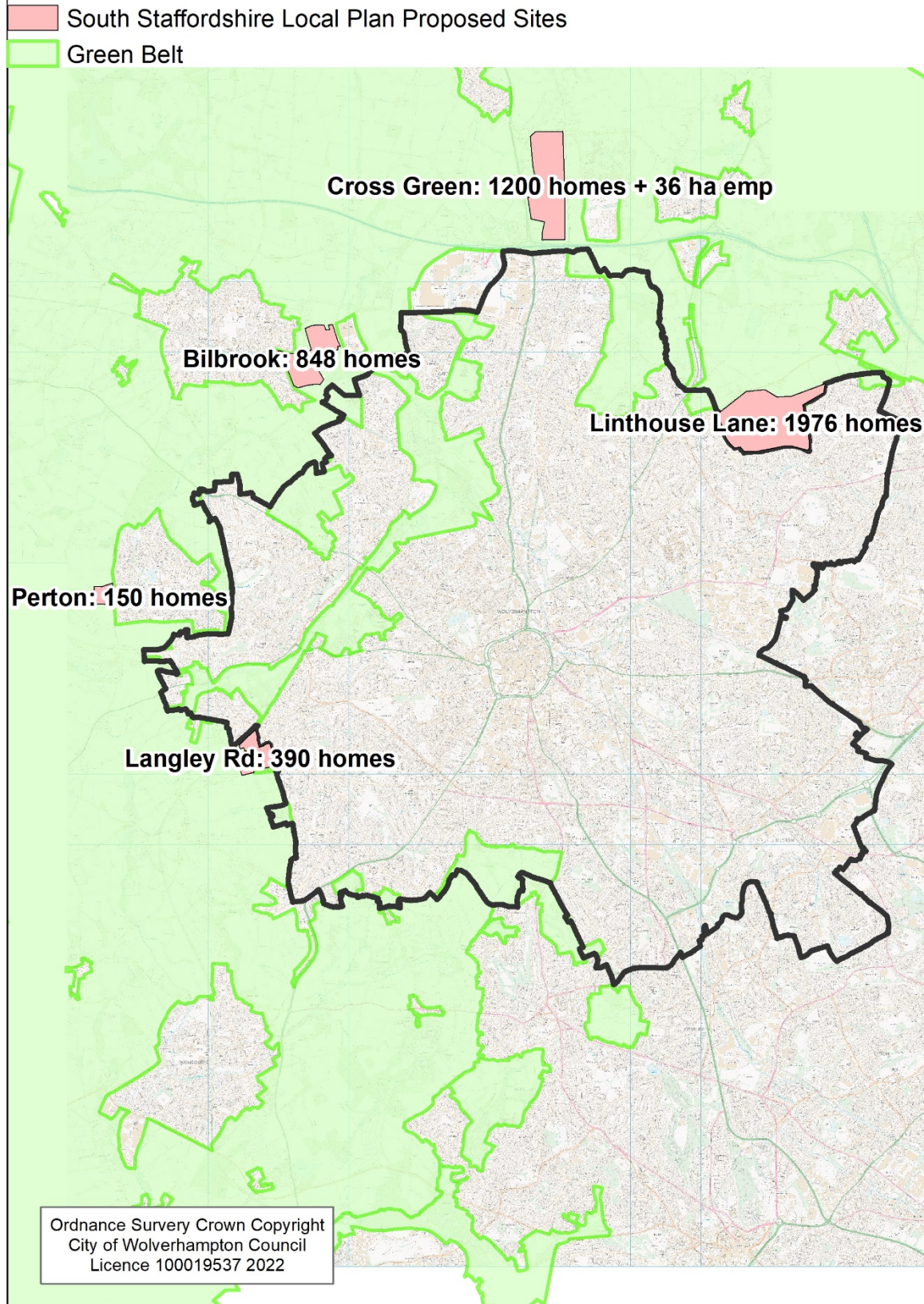
Summary of the Consultation

- 3.1 SSDC remain committed to contribute 4,000 homes towards the unmet needs of the HMA, on top of the 5,089 homes required to meet their local housing need up to 2039. However, this contribution is not apportioned between the HMA authorities. The consultation also sets out longer term aspirations for development of a new settlement along the A449 / West Coast Mainline corridor (around Penkridge) as part of the next Plan review. This location was identified in the HMA Strategic Growth Study and has the

potential to help meet longer term HMA shortfalls. Following completion of the South Staffordshire Housing and Employment Development Needs Assessment (HEDNA), the SSLP provides sufficient employment land to meet local need for 63.6ha, and also makes a contribution of 36.6ha of strategic employment land and 67ha of the West Midlands Interchange site specifically towards the unmet needs of the Black Country authorities - most recently estimated as 210ha. The SSLP identifies an unmet need for 35 gypsy and traveller pitches and states that SSDC will continue to work with neighbouring authorities through DtC to explore options to address this unmet need, in accordance with DtC letters sent by SSDC to ABCA in January and August 2022.

- 3.2 Most of the proposed new housing and employment development sites are located on the edge of existing South Staffordshire settlements, the majority on greenfield land which is currently green belt. These include extensions to Codsall/Bilbrook. There are also significant extensions proposed to the Wolverhampton urban area at Linthouse Lane (1,976 homes - 1,200 by 2039) and Langley Road (390 homes) and a significant mixed use allocation just north of Wolverhampton at Cross Green/ ROF Featherstone (1,200 homes and 36 ha employment land). Policy DS5 states that SSDC “will work cross-boundary with infrastructure bodies and statutory partners to ensure these sites are supported by any necessary infrastructure”. Plan 1 shows the location of significant allocations which could have cross-boundary implications for Wolverhampton.
- 3.3 The SSLP is supported by an updated Infrastructure Delivery Plan (IDP) addressing a range of infrastructure issues including transport, schools, health facilities, community services, open space and retail. This has been developed through consultation with infrastructure providers and neighbouring authorities, including CWC. Strategic infrastructure opportunities are identified, including a First School to serve Codsall / Bilbrook and A41 junction improvements at Perton to alleviate congestion.
- 3.4 The IDP states that urban extension sites will be expected to deliver much of their new infrastructure demand on site, creating communities with a high degree of self-containment in terms of local shops, community facilities and primary schools, whilst having good access to higher order facilities in the adjacent urban area. Smaller sites, such as Langley Road, which cannot sustain on site infrastructure are considered to be located within walking distance of a good range of services and facilities in the neighbouring urban area. However, the IDP explains how a health infrastructure policy requiring developer contributions has been introduced into the SSLP and acknowledges that health service needs for the Linthouse Lane site would be best met off-site. It states that discussions will continue with the Integrated Care Board (ICB) and NHS England in the Black Country on cross-boundary health provision.

Plan 1 South Staffordshire Local Plan Sites adjoining Wolverhampton



3.5 Policies SA2 and SA3 covering the Cross Green and Linthouse Lane sites require development to be in accordance with Strategic Master Plans, which are being prepared with the involvement of partners, including CWC. These Master Plans will address timely delivery of key infrastructure and design requirements. Indicative concept plans are provided in the SSLP to guide the Master Plan process, as set out below for Linthouse Lane. Strategic transport assessments have also been drafted for these two strategic sites, with the involvement of CWC, and will be updated throughout the Plan process. The work to date demonstrates that impacts are anticipated across the Wolverhampton network as a result of proposals, and that appropriate mitigation should be identified at the next stage of Transport Assessment when more is understood about the Strategic Master Plans and specific site arrangements, as detailed below.

Linthouse Lane Indicative Concept Plan



3.6 Policy SA3 includes the following requirements for the Linthouse Lane site:

- A range of house types including 30% affordable housing and 80 specialist homes for the elderly, with higher densities closer to the urban edge;
- a Community Hub including central green space, new two form entry primary school, local shops and commercial floorspace and “flexible community space”;
- a green and blue infrastructure network, including sustainable drainage systems, wildlife areas, full-size sports pitches, a Community Park (potentially including changing facilities, toilets, café, etc.) and potential canal crossing;
- a transport strategy covering: main accesses from Linthouse Lane and Blackhalve Lane which are designed to consider impact on the existing road network; public

transport to support sustainable travel (including at least one main route through the development, new bus stops on Blackhalve lane and Kitchen Lane and extra or relocated bus stops on Linthouse Lane); and high quality active travel links through and beyond the site which integrate existing public rights of way and provide links to Ashmore Park and facilities west of the site;

- historic environment mitigation, including protection of the former Prestwood;
- financial contributions for off site infrastructure: highways and active travel (in Wolverhampton and South Staffordshire); secondary school places (in South Staffordshire); leisure; and health provision (at nearby existing centres).

- 3.7 The Cross Green site will be supported by similar levels of infrastructure, including a new primary school and sports pitches, and off site contributions towards secondary school place (in South Staffordshire) and health provision. The site will also include safeguarded land for a potential rail-based parkway and will be accessed by a link road from the A449, which will also provide access to the ROF Featherstone strategic employment site.
- 3.8 The Langley Road site is required to provide vehicular and pedestrian access via Langley Road and high quality walking and cycling access along Langley Road to the Merry Hill Centre, with potential for pedestrian links north to Castlecroft Road and onto the adjacent railway walk. The Second World War gun battery site is protected and may be suitable as public open space, and tree and hedgerow boundaries around the site will be retained. There will be 30% affordable housing and open space on site, and off site education and health requirements.

Implications for Wolverhampton

Strategic

- 3.9 Wolverhampton has a very strong functional relationship with South Staffordshire in terms of migration patterns and travel to work data. Work on the BCP, which will be taken forward through the emerging WLP, has confirmed that Wolverhampton has significant unmet housing need, taking into account capacity in the urban area and limited green belt release. Therefore, the SSLP 4,000 home contribution towards meeting wider HMA needs is welcome. Securing a significant proportion of this contribution for Wolverhampton, together with contributions from other neighbouring authorities, could make significant headway into addressing the WLP housing shortfall and increase the likelihood that the WLP will be found sound. It is also welcome that there are longer term proposals to develop a new settlement which would have the potential to help meet future WLP housing shortfalls.
- 3.10 Migration patterns are a robust source of evidence which can be used to apportion the 4,000 homes in an appropriate and reasonable manner between those neighbouring authorities which can demonstrate unmet housing need. These authorities include Birmingham, where there is evidence of a housing shortfall of over 78,000 homes (see

below). Analysis of migration patterns over the period 2002-2019 between South Staffordshire and the Black Country / Birmingham shows that Wolverhampton accounts for 37% of net inflows, Walsall 25%, Birmingham 3%, Sandwell 11% and Dudley 24%. However, whereas Wolverhampton and Sandwell have housing need figures which far outstrip the housing capacity identified in the Draft BCP, it is not currently clear if either the Dudley Local Plan or the Walsall Local Plan will generate a residual housing shortfall. The Draft BCP evidence shows that there is sufficient urban land in Dudley to meet Dudley local housing needs. This means that there is currently no evidenced shortfall in Dudley, and also that green belt sites, such as those consulted on in the Draft BCP, could provide additional housing to meet the needs of other authorities with a clear shortfall, such as Wolverhampton. The Walsall Local Plan preparation process is not due to commence until later in 2023 and any future shortfall has the potential to be met through contributions from the Shropshire and Lichfield Local Plans, which are at an advanced stage and have agreed contributions towards the Black Country as a whole. On this basis, it would be appropriate for the 4,000 homes to be divided between Wolverhampton, Sandwell and Birmingham in proportion to their share of historic net migration inflows, with Wolverhampton allocated some 72.5%, or 2,900 homes. This figure is further justified by the proximity to Wolverhampton of allocations delivering 3,566 homes in total, as set out in para 3.12 below. CWC accepts that the contribution of 4,000 homes by the SSLP to the HMA is a reasonable one and should not be increased.

- 3.11 It is also welcome that the SSLP is making a significant contribution towards the unmet employment land needs of the Black Country Functional Economic Market Area, of which Wolverhampton is a part. In terms of unmet need for gypsy and traveller pitches, the need to consider gypsy and traveller pitch need and supply for Wolverhampton alone through the WLP process provides an opportunity to revisit the potential for sites in Wolverhampton to contribute towards SSLP unmet need.
- 3.12 The SSLP proposes significant allocations on or near the edge of Wolverhampton, totalling 2,790 homes up to 2039 and 776 homes beyond 2039. Policy DS5 states that these are located adjacent to the Black Country “to facilitate sustainable growth of their towns and cities” and to assist in meeting wider unmet need from the HMA – strengthening the case that these homes will meet Wolverhampton needs. There is also a strong case for Wolverhampton residents to secure nomination rights for a reasonable proportion of the 30% affordable housing which is proposed on these sites.
- 3.13 The Cross Green mixed use development will help meet the employment land needs of the Black Country in a location close to significant employment opportunities at the i54 and ROF Featherstone strategic employment sites. The development will help deliver the ROF Featherstone strategic employment site and Brinsford Strategic Park and Ride site which will increase access to the rail network, and also addresses the HMA Strategic Growth Study recommendation for a strategic housing site in this locality.

Impacts on Wolverhampton Infrastructure

- 3.14 The proposed allocations adjoining Wolverhampton raise cross-boundary infrastructure issues which could impact on local infrastructure. The SSLP spatial strategy is stated as being “infrastructure-led”, having specific regard to infrastructure opportunities such as school place expansions. It is particularly of note that the Linthouse Lane and Cross Green urban extensions are expected to deliver infrastructure on site, creating communities with a high degree of self-containment in terms of local shops, community facilities and primary schools, which could minimise impacts on existing local communities, if delivered in a timely manner. The IDP sets out how various infrastructure needs are in the process of being assessed and how these may be addressed.
- 3.15 If infrastructure impacts are not fully assessed and mitigated through the contributions of developers and infrastructure providers these developments could have negative impacts on Wolverhampton infrastructure, including transport, public open space, education and health services. The developments could also have negative impacts on the environmental quality and amenity of immediately adjoining residential areas if not properly planned. Therefore, each development, including Langley Road, needs to be carefully master planned, based on sufficient detailed evidence, and it is vital that close joint working between SSDC and CWC continues on all relevant issues throughout the SSLP preparation, Master Plan preparation and planning application processes.
- 3.16 The likely cross-boundary impacts on key infrastructure issues (transport, education, health and green space) are considered below.

Transport

- 3.17 In terms of transport infrastructure implications, close engagement will need to continue with Staffordshire County Council. As a gateway to the West Midlands, it is critical that the impact on the transport network of trip generation is assessed not just in the immediate vicinity of development but also in the corridors giving access into the urban area. Developments should minimise trip generation, through local provision of services, high-quality multi-modal connectivity and maximising opportunities arising from future transport developments e.g. growth in electric vehicle usage. Good access to the rail network and provision of supporting infrastructure such as sufficient park and ride capacity are essential. Any impact of the implementation of HS2 should be taken into account and high quality pedestrian and cycling infrastructure should be incorporated for local journeys and first / last mile links.
- 3.18 Development should link effectively to the strategic transport network, in particular high-capacity corridors such as the A449 and the proposed M6 link road, avoiding excessive pressure on sensitive transport links such as the A454, the urban A460 and non-strategic routes. Where transport link improvements are required to mitigate trip generation impacts, appropriate funding mechanisms should be secured. Co-ordinated transport modelling exercises are currently underway for the SSLP and the Black Country authorities. Initial indications are that potential impacts on the Wolverhampton highways

network can be mitigated through a viable and deliverable package of developer funded improvements.

Education

- 3.19 SSDC currently operate a developer contribution system for school places needs arising from development. The SSLP and IDP set out the expectation that there will not be a reliance on Wolverhampton schools to accommodate South Staffordshire pupils arising from new development, and vice versa, and that this will be set out in a Statement of Common Ground. Although sites are proposed for new primary schools at Linthouse Lane and Cross Green, there are no specific proposals to address secondary school place needs arising from these developments. The IDP states that developments of 5000 homes may generate the need for a new secondary school. However, the current Staffordshire Education Authority view is that new middle/high schools will not be required to serve the level of growth proposed in the Plan.
- 3.20 Bhylls Acre Primary is located in Wolverhampton, adjoining the Langley Road site. Although the school is under the jurisdiction of SSDC most pupils are Wolverhampton residents. Langley Road would also be in the catchment area for South Staffordshire secondary schools. The Langley Road development would impact on the South Staffordshire area initially due to pupil demographics and South Staffordshire operating catchment areas. If the Published Admission Number at Bhylls Acre remained at 30 per year group, the delivery and phasing of the development would likely mean that new SSDC resident pupils could displace Wolverhampton resident pupils over time. However, the Wolverhampton Wards that are closest to the border show that cohorts entering reception up to academic year 2026-27 are anticipated to decrease based on birth rates. Therefore, any push back over time from the Langley Road development, for both primary and secondary phases, is expected to be capable of being catered for in existing provision within Wolverhampton, without the need for new schools or school extensions.
- 3.21 In conclusion, although it is welcome that SSDC are committed to meeting primary and secondary school place needs arising from Preferred Options development within South Staffordshire, and to establishing agreement on this with CWC through a SoCG, further details are required on how the secondary school places arising from Linthouse Lane and Cross Green would be accommodated by expanding capacity at existing middle and high schools in South Staffordshire. These details should be set out in the IDP and established, as far as possible, in the SoCG.

Health

- 3.22 The SSLP states that ensuring sufficient access to GP / health centres to accommodate residents from new developments will be a key challenge. The IDP states that access to GP provision has been identified as a local infrastructure concern. The SSLP includes a policy requiring developer contributions towards health infrastructure such as GP / health centres. The Linthouse Lane, Cross Green and Langley Road developments would generate a large number of additional patients and it is understood that there is currently

no potential to extend or provide new local surgeries in South Staffordshire to accommodate this increase. The part of South Staffordshire adjoining Wolverhampton is served by the Staffordshire and Stoke-on-Trent ICB and Wolverhampton is served by the Black Country (BC) ICB. Therefore, any cross-boundary solutions would require coordination of service improvements between adjoining ICBs. The BC ICB have advised CWC and SSDC that there is potential to improve GP provision within Wolverhampton to meet the needs of these three sites.

Green Space

- 3.23 It is important that any green infrastructure proposals for developments located on the edge of Wolverhampton are fully integrated with existing and potential green infrastructure networks in Wolverhampton. The indicative concept plan for the Linthouse Lane site locates a large area of green space, including the Community Park, to the north of the site. If more green space and associated facilities were located along the CWC boundary this would make it more accessible to Wolverhampton residents and would soften the visual impact of the new development from locations within Wolverhampton.

Proposed Principles for a Wolverhampton Response

- 3.24 Therefore, it is proposed that the principles for a CWC consultation response are developed based on:

Legal Compliance, Duty to Cooperate and Soundness

- a) Acknowledge that CWC and SSDC have been working together constructively on planning issues of mutual interest and that this is expected to continue. It is essential that the phasing of site delivery and associated infrastructure (including the construction period) is managed in a coordinated manner given the clustering of proposed allocations and the cumulative impact of development.
- b) Support the completion of Statements of Common Ground (SoCG) to support the Submission SSLP, in line with the principles set out in Appendix 1, subject to delegated approval.
- c) Expectation that, during 2023, as the WLP moves towards Issues and Preferred Options consultation and the SSLP moves towards Submission, CWC and SSDC will aim to reach agreement on all relevant cross-boundary issues and reflect this agreement in complementary Statements of Common Ground to support each Plan;
- d) Support for the SSLP housing target of local housing need plus 4,000 homes to meet Greater Birmingham and Black Country Housing Market Area need up to 2039;
- e) Given detailed evidence provided by the Draft BCP that Wolverhampton has a very significant housing shortfall up to 2039, and the close geographical, migration and commuting links between Wolverhampton and South Staffordshire, 72.5% (2,900) of the 4,000 homes should be specifically allocated to meet Wolverhampton

housing needs, in line with a net migration apportionment approach which includes all authorities with an evidenced shortfall;

- f) Support for longer term aspirations for a new settlement with strong sustainable transport links to Wolverhampton, which could help meet longer term Wolverhampton housing shortfalls;
- g) Support for the SSLP contribution of 100.2ha towards unmet Black Country employment land needs;
- h) Acknowledge the SSLP unmet need for gypsy and traveller pitches and commit to explore the potential for sites in Wolverhampton to help meet that need through the WLP process.
- i) Consider that the SSLP has been prepared in a manner which is legally compliant and meets the Duty to Cooperate. However, the SSLP will not be considered sound (in terms of being positively prepared and effective) unless and until appropriate changes are made to the SSLP and supporting IDP, and SoCG are agreed with relevant parties, in line with the issues raised in the CWC response.

Site allocations and cross-boundary infrastructure

- j) Noting the scale and location of the proposed extensions to the Wolverhampton urban area, seek further work on infrastructure requirements associated with the type, scale, location and phasing of development and assurances that close joint working on all relevant planning issues will continue throughout the Plan preparation process, Strategic Master Plan preparation, pre-application and planning application processes;
- k) Request that a Master Plan is also prepared for the Langley Road site, providing details of proposed access arrangements;
- l) Request development of a SoCG which agrees that 50% of the affordable rent housing secured on the Linthouse Lane, Cross Green and Langley Road sites is allocated (both at first let and subsequent re-lets) through nomination rights for Wolverhampton residents;
- m) Request that the combined impact of SSLP and potential WLP developments on the wider transport network is assessed, that development links effectively to the strategic transport network and avoids excessive pressure on sensitive transport links, that effective sustainable transport solutions are provided to connect essential trips to the local network, and that developments seek to minimise trip generation through all available mechanisms;
- n) Require assurance that CWC will be consulted on any transport assessments / planning applications associated with development sites near the Wolverhampton boundary, including land adjoining Perton and land adjoining Codsall / Bilbrook.

- o) Support the continued promotion of the existing Brinsford Strategic Park and Ride site allocation and other supporting infrastructure which increases access to the rail network;
- p) Request development of a SoCG which establishes the principle of self-containment regarding primary and secondary school places for the SSLP, is more specific about the location and deliverability of secondary school places, and ensures any required primary and secondary school places are delivered early in the development process to minimise impacts on Wolverhampton schools;
- q) Support for new health infrastructure policy and request development of a SoCG which ensures that, for each of the Linthouse Lane, Cross Green and Langley Road developments, if it is not feasible to increase GP service capacity to absorb additional demand within the Staffordshire and Stoke-on-Trent Integrated Care Board (ICB) in locations which would clearly serve site residents and at an early stage of development to avoid negative impacts on the Wolverhampton GP service network, then off-site health service contributions will be secured for improvements to the Wolverhampton GP service network which would increase the capacity of the network to absorb additional demand, in accordance with Black Country ICB requirements.
- r) Request that green infrastructure proposals for developments on the edge of Wolverhampton are integrated with existing and potential networks in Wolverhampton.
- s) Request the relocation of areas of green space shown on the Linthouse Lane indicative concept plan to areas along the CWC boundary, to allow Wolverhampton residents better access to this green space and facilities within it and to soften the visual impact of the new development from locations within Wolverhampton.

3.25 In accordance with the consultation response principles above, the recommended issues for inclusion in SoCG between CWC and other parties on the SSLP for Submission stage are set out in Appendix 1.

4.0 Stafford Local Plan – Preferred Options

4.1 The SLP Preferred Options consultation document has responded positively to the ABCA Issues and Options representation by proposing 2,000 homes over and above Stafford housing need, “as a contribution to meeting unmet need of other authorities in the region.” This figure is based on developing 3,000 homes at the Meecebrook Garden Community by 2040. The ‘other authorities’ are not defined, but Wolverhampton has a functional relationship with Stafford in terms of migration patterns. Work on the BCP, which will be taken forward through the emerging WLP, has confirmed that Wolverhampton has significant unmet housing need, taking into account capacity in the urban area and limited green belt release. The principle of the 2,000 contribution towards meeting wider needs should therefore be welcomed. Securing a proportion of

this contribution for the WLP, together with contributions from other neighbouring authorities, could make significant headway into addressing the WLP housing shortfall and increase the likelihood that the WLP will be found sound. However, the SLP allocates land for 12,580 homes, compared with a local housing need (incorporating an economic uplift above Government housing need figures) of 8,700 homes plus the 2,000 home contribution. The SLP therefore assumes a non-implementation rate of 15% (1,880 homes), for which there appears to be no published evidence. This is a very high rate to assume, considering that the majority of housing supply is greenfield and that some brownfield sites have been excluded from supply given delivery concerns. The rate is three times the c. 5% discount applied in the Draft BCP, which in contrast had a majority brownfield supply, including a high proportion of constrained brownfield sites.

- 4.2 In accordance with the approach set out for the SSLP in para 3.10 above, migration patterns are a robust source of evidence which can be used to apportion the 2,000 homes in an appropriate and reasonable manner between those neighbouring authorities which can demonstrate unmet housing need. These authorities include Birmingham, where there is evidence of a housing shortfall of over 78,000 homes (see below). Analysis of migration patterns over the period 2002-2019 between Stafford and the Black Country / Birmingham shows that Wolverhampton accounts for 27% of net inflows, Walsall 33%, Birmingham 18%, Sandwell 12% and Dudley 1%. However, whereas Wolverhampton and Sandwell have housing need figures which far outstrip the housing capacity identified in the Draft BCP, it is not currently clear if either the Dudley Local Plan or the Walsall Local Plan will generate a residual housing shortfall. The Draft BCP evidence shows that there is sufficient urban land in Dudley to meet Dudley local housing needs. This means that there is currently no evidenced shortfall in Dudley, and also that green belt sites, such as those consulted on in the Draft BCP, could provide additional housing to meet the needs of other authorities with a clear shortfall, such as Wolverhampton. The Walsall Local Plan preparation process is not due to commence until later in 2023 and any future shortfall has the potential to be met through contributions from the Shropshire and Lichfield Local Plans, which are at an advanced stage and have agreed contributions towards the Black Country as a whole. On this basis, it would be appropriate for the 2,000 homes to be divided between Wolverhampton, Sandwell and Birmingham in proportion to their share of net migration inflows, with Wolverhampton allocated at least 47%, or 940 homes.
- 4.3 The 2,000 contribution is specifically based on the delivery of 3,000 homes at the Meecebrook site as part of a 30 year programme which will extend beyond the current Plan period. Therefore, if actual development exceeds this figure, then the 2,000 offer and the Wolverhampton share of it could be increased.
- 4.4 The interim officer response set out in Appendix 2 therefore supports the SLP housing target, the Meecebrook allocation and para 1.3 which references the contribution to meeting wider needs. The response also sees this as a minimum contribution, and requests that the non-implementation rate is reviewed in light of evidence. A lower non-

implementation rate (c. 5%) would provide additional capacity so that the contribution towards unmet need could be increased (by c.1250 homes), and the Wolverhampton share increased accordingly. In addition, the Plan should have regard to the total potential for at least 6,000 homes at Meecebrook, subject to higher delivery rates.

- 4.5 Turning to employment land, the SLP provides significant 'headroom' of employment land supply (150ha) against a target of 80ha. This supply includes 15ha at the Meecebrook site, which is of a scale designed to address the employment needs of new residents and secure a degree of self-containment. Given that Meecebrook is identified as meeting housing needs arising in neighbouring areas, then it would be appropriate for the employment land element of the development to be considered capable of meeting needs arising in Wolverhampton and the Black Country, given the functional relationship outlined above.
- 4.6 The interim officer response set out in Appendix 2 therefore notes the employment land target of 80ha and the supply of 150ha, requesting that a significant element of this headroom is considered to be suitable to meet needs arising in Wolverhampton and the Black Country. The response also specifically recognises the 15ha of employment land at the Meecebrook site as being directly suitable to meet Wolverhampton and Black Country needs.

5.0 Birmingham Local Plan – Issues and Options

- 5.1 The BLP Issues and Options consultation identifies a housing need of 149,286 homes up to 2042 and an estimated total capacity of 70,871 homes, resulting in a shortfall of 78,415 homes. A number of options are identified to address this shortfall, including raising densities, developing areas of employment land and opportunities within the green belt. However, given the scale of the shortfall, it is likely that all of these options will need to form part of the preferred approach, and that a significant shortfall will still remain to require assistance from neighbouring authorities.
- 5.2 This is important for Wolverhampton, because the emerging BLP shortfall will add to the housing shortfall identified through work on the BCP (some 27,000 homes), producing a total shortfall across the West Midlands conurbation of over 100,000 homes. This is likely to place additional demand on the existing housing stock and on new housing coming forward across the wider housing market area, driving up prices, with resultant impacts on affordability for local people. It also means that neighbouring authorities are being faced with an additional request to bring forward land in their Local Plans to meet Birmingham needs, in addition to requests from Wolverhampton and the other Black Country authorities.
- 5.3 Turning to employment land, the consultation document identifies a need for 296ha of land, with supply limited to 222ha, resulting in a shortfall of 74ha. The consultation identifies potential for additional land to be brought forward within Birmingham to address this shortfall, and for a proportion (53ha) of the consented land at West Midlands Interchange (WMI) in South Staffordshire to contribute towards Birmingham needs. The

WMI apportionment is consistent with work commissioned by the Black Country authorities in 2021 and will not involve any double counting of land being attributed towards meeting Wolverhampton and Black Country needs.

- 5.4 Alongside the consultation, Birmingham City Council (BCC) have written to all neighbouring authorities to ask if they are able to make a contribution to addressing the shortfalls arising through the BLP, and that they are committed to ongoing discussions.
- 5.5 The interim officer response set out in Appendix 3 therefore notes the scale of housing and employment land need being identified through the BLP and encourages comprehensive testing of all options to help to meet these needs. The response also supports the suggestion that a proportion of land at WMI could be reasonably attributed towards meeting Birmingham needs, consistent with the approach set out in the BCP evidence. In terms of the specific questions asked by Birmingham, the response confirms that the WLP is unable to make a contribution towards the BLP housing and employment land shortfalls given that Wolverhampton cannot meet its own needs. The response also supports the need for local authorities to continue to work together to establish a regional approach to addressing the BLP housing shortfall.

6.0 Evaluation of alternative options

- 6.1 The alternative option is for the Council not to respond to the consultations. This option is not viable, given the implications of the SSLP, SLP and BLP for Wolverhampton could be significant.

7.0 Reasons for decisions

- 7.1 The SSLP, SLP and BLP could have significant implications for Wolverhampton therefore it is important that the Council submits a response to each stage of consultation.

8.0 Financial implications

- 8.1 There are no immediate financial implications arising directly from this report. Any staffing costs associated with responding to the consultation will be met from the approved Planning budget 2022-23. At future stages in the SSLP process implications may arise for infrastructure provision in Wolverhampton, which will be addressed in future reports.
[AI/18112022/I]

9.0 Legal implications

- 9.1 As a neighbouring authority, SSDC, SBC and BCC are required to work with the Council on the preparation of their Local Plan documents. Pursuant to Section 110 of the Localism Act 2011 the Council's planning authority has a legal "duty to cooperate" This requires the Council 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.

9.2 The duty to cooperate is not a duty to agree, but local planning authorities should make every effort to secure the necessary cooperation on strategic cross boundary matters before they submit their Local Plans for examination. Local planning authorities must demonstrate how they have complied with the duty otherwise they will not be able to proceed further in examination. As part of its consideration, local planning authorities will need to bear in mind that the cooperation should produce effective and deliverable policies on strategic cross boundary matters as set out in the body of this report.
[TC/24112022]

10.0 Equalities implications

10.1 A screening has been carried out for equalities implications and this concluded that a full Equality Analysis was not required for the recommendations of this report, as they do not involve a change to Council services, functions, policies or procedures.

11.0 All other implications

11.1 There are no other implications of this report.

12.0 Schedule of background papers

12.1 South Staffordshire Local Plan Regulation 19 Consultation, November 2022

12.2 South Staffordshire Local Plan Infrastructure Delivery Plan, November 2022

12.3 Report to 26 October 2022 Cabinet: [Wolverhampton Local Development Scheme](#)

12.4 Report to 8 December 2021 Cabinet: [South Staffordshire Local Plan Preferred Options Consultation](#)

12.5 Report to 22 January 2020 Cabinet: [South Staffordshire Local Plan Spatial Housing Strategy and Infrastructure Delivery Consultation](#)

12.6 Report to 12 December 2018 Cabinet: [Wolverhampton Response to South Staffordshire Local Plan Issues and Options Consultation](#)

12.7 Report to 2 October 2018 Cabinet (Resources) Panel: [Black Country and South Staffordshire Plan Reviews – Call for Sites Submissions](#)

13.0 Appendices

13.1 Appendix 1 - Principles for Draft Statements of Common Ground between City of Wolverhampton Council and other parties on the South Staffordshire Local Plan.

13.2 Appendix 2 - Interim Officer Response to Stafford Local Plan Preferred Options Consultation.

13.3 Appendix 3 - Interim Officer Response to Birmingham Local Plan Issues and Options Consultation.

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Appendix 1

Recommended Issues for Inclusion in Statements of Common Ground between City of Wolverhampton Council (CWC) and other parties on the South Staffordshire Local Plan (SSLP) for Submission Stage

1. Strategic Matters

a) Housing

- CWC supports the SSLP housing target of local housing need plus 4,000 homes to meet Greater Birmingham and Black Country Housing Market Area (HMA) need up to 2039.
- CWC agrees that there should be no increase in the 4,000 homes figure.
- CWC supports the apportionment of this contribution between Local Plan areas in the HMA where a housing shortfall can be evidenced over the SSLP Plan period.
- CWC supports the use of an apportionment approach based on net migration flows to divide the contribution between HMA Local Plan areas with a demonstrable housing shortfall. This would generate a contribution for Wolverhampton in the order of 2,900 homes.
- CWC agree that it would be preferable for an apportionment approach to be agreed between the Black Country authorities and Birmingham City Council (BCC), and will work to try and achieve this, however such an agreement would need to be in place by submission of the SSLP.

b) Employment Land

- CWC supports the SSLP contribution of 100.2ha towards unmet Black Country employment land needs.

c) Gypsy and Traveller Pitches

- CWC acknowledges the SSLP unmet need for gypsy and traveller pitches and commits to explore the potential for sites in Wolverhampton to help meet that need through the Wolverhampton Local Plan (WLP) process.

2. Cross-Boundary Infrastructure

d) Affordable Housing

- CWC seeks agreement that at least 50% of the affordable rent housing secured on the Linthouse Lane, Cross Green and Langley Road sites will be allocated (both at first let and subsequent re-lets) through nomination rights for Wolverhampton residents.

e) Primary and Secondary School Places

- CWC, SSDC and Staffordshire County Council (SCC) agree that the principle of self-containment should be established for the provision of new primary and secondary school places to serve developments proposed in the SSLP.

f) Health Services

- CWC supports the SSLP health infrastructure policy.
- CWC seeks agreement that, for each of the Linthouse Lane, Cross Green and Langley Road developments, if it is not feasible to increase GP service capacity to absorb additional demand within the Staffordshire and Stoke-on-Trent Integrated Care Board (ICB), in locations which would clearly serve site residents and at an early stage of development to avoid negative impacts on the Wolverhampton GP service network, then off-site health service contributions will be secured for improvements to the Wolverhampton GP service network which would increase the capacity of the network to absorb additional demand, in accordance with Black Country ICB requirements.

g) Transport

- CWC, SSDC, SCC and National Highways (NH) will continue to work together to develop a highways evidence base to assess likely impacts and necessary mitigation measures regarding the combined impact of SSLP and potential WLP developments.
- Constructive and ongoing engagement has occurred between all parties and the Duty to Cooperate has been met.
- SSDC, SCC and CWC all support the delivery of the Brinsford Parkway project and will continue to work collaboratively with external stakeholders to ensure its delivery.
- There is agreement on the methodology used in the Strategic Transport Assessments (STAs) for the four strategic housing sites in the SSLP.
- There is a need for cumulative impact assessment of the strategic housing sites on the Strategic Road Network.
- The indicative mitigation measures recommended in the STAs will be included in the Infrastructure Delivery Plan (IDP) to support site delivery.
- Finalised mitigation schemes will be set out at planning application stage and will prioritise delivery of active travel and sustainable transport mitigation measures over measures to facilitate car trips.
- Based on the evidence to date, there are no concerns about the potential deliverability of growth set out in the SSLP, in terms of highway impacts.
- CWC seek reassurance that CWC will be consulted on any transport assessments / planning applications associated with development sites near the Wolverhampton boundary, including land adjoining Perton and land adjoining Codsall / Bilbrook.

h) Green Space

- CWC seeks agreement that green infrastructure proposals for developments on the edge of Wolverhampton are integrated with existing and potential networks in Wolverhampton.
- CWC seeks agreement for revisions to the Linthouse Lane indicative concept plan which provide for relocation of areas of green space to locations along the CWC boundary, to allow Wolverhampton residents better access to this green space and facilities within it, and to soften the visual impact of the new development from locations within Wolverhampton.

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Appendix 2

Interim Officer Response to Stafford Local Plan Preferred Options Consultation

Strategic Planning & Placemaking
Stafford Borough Council
Civic Centre
Riverside
Stafford
ST16 3AQ

Dear Strategic Planning Team,

Stafford Borough Council New Local Plan 2020-2040 – Issues and Options consultation

This letter contains the officer response on behalf of the City of Wolverhampton Council to the Preferred Options Consultation. The Council's Cabinet will be considering this response at their meeting on 14th December and I hope to be able to confirm this officer response following that meeting.

In summary, the Council welcomes the progress made with the new Local Plan, and the positive approach which it takes to the Duty to Cooperate in responding to the unmet housing and employment land needs of neighbouring Local Plan areas. In the context of this broad support, we have a number of points which we wish to raise on specific issues. Our detailed response is set out below.

Background

A Representation was submitted to the previous stage (Issues and Options) of the Plan preparation process in 2021 on behalf of the City Council through the Association of Black Country Authorities (ABCA). This representation requested that the Local Plan should promote growth options in excess of local needs in order to provide housing and employment land which could meet needs arising in the Black Country, given the shortfall across the area as a whole as identified through work on the Black Country Plan (BCP). The representation specifically highlighted the role of a proposed new settlement at Meecebrook as being well-placed to meet these needs subject to significant infrastructure investment in order to enhance its accessibility. The ABCA 'request' was for the provision of some 1,500-2,000 homes and 35-40ha of employment land to meet needs arising in the Black Country.

As you may be aware, in September 2022 the Leader of Dudley Council announced that he wished to withdraw the Council from involvement in the BCP. The four Black Country Councils subsequently agreed to prepare individual local plans and the associated Local Development Schemes (LDSs) are in the process of being brought into effect.

The Wolverhampton Local Plan

The Wolverhampton LDS was adopted by Cabinet on 26th October (<https://wolverhampton.moderngov.co.uk/documents/s223167/Appendix%201%20-%20Wolverhampton%20Local%20Development%20Scheme%20Oct%202022.pdf>), confirming the commitment of the Council to continue to prepare an up to date Local Plan in a robust and timely manner. There is an Issues and Preferred Options consultation on the

Wolverhampton Local Plan programmed for February 2023, followed by a Regulation 19 consultation in summer 2023.

The Local Plan will build on the work progressed on the BCP and subsequent evidence. Our current position on housing and employment land need and supply is as set out in the Draft BCP, published for consultation in 2021. In the case of housing, the Draft BCP identified a shortfall of some 28,000 homes to 2039 across the four Council areas. For Wolverhampton, the housing shortfall is substantial at some 7,900 homes.

Turning to employment land, the Planning Practice Guidance encourages strategic Plan-making authorities to identify needs on a Functional Economic Area (FEMA) basis. In the case of Wolverhampton, the City is located within the Black Country FEMA as identified in the Black Country Economic Development Needs Assessment (EDNA) published in 2017. Across the FEMA as a whole, the BCP identifies a shortfall of some 210ha of employment land to 2039, this being the sum of shortfalls across the four Council areas. The EDNA confirms that the Wolverhampton element of this shortfall is between 40ha to 80ha.

While the Council will be updating land supply as part of the preparation of the Local Plan, we do not anticipate that the work will reveal any significant sources of additional land to meet housing or employment needs. The Wolverhampton Local Plan will have a Plan period extending to 2040, adding a further one year of housing and employment land demand which may have the effect of increasing the shortfalls outlined above.

For these reasons, we are strongly of the view that the Wolverhampton housing shortfall identified in the Draft BCP remains and could potentially rise further. The ABCA representation to the Issues and Options consultation identified a strong functional relationship between the Black Country and Stafford, and highlighted the relationship with Wolverhampton in particular as being a strong one. On this basis, the Council consider that not only is there compelling evidence of a housing shortfall arising in Wolverhampton, but also that Stafford is well placed to make a contribution towards addressing this shortfall through the current Local Plan.

The Preferred Options consultation

The Preferred Options document sets out to deliver 10,700 (535 per year) new homes between 2020 and 2040. This consists of 435 dwellings each year to meet Stafford's identified housing need with 100 homes per year to meet unmet housing needs from other authorities. However, it is proposed that the Plan should provide sufficient land supply to deliver a total of 12,580 homes. This surplus of 1,880 homes, which amounts to 15% of the housing requirement, is intended to provide a 'buffer', to allow for the potential non-implementation of some of the sites identified in the Plan. However, the evidential basis for this buffer is not clear and any of the buffer not required to allow for non-implementation could be added to the offer made to other authorities. It is understood that the majority of the Stafford Local Plan housing supply will be on greenfield land with few constraints, and that some brownfield sites have not been counted in supply because of concerns regarding their deliverability. In comparison, the Draft BCP provided an evidenced buffer of only 5% for a primarily brownfield housing land supply, including some sites with constraints. Therefore, a buffer of 5% is suggested to be more appropriate, subject to evidence which should be prepared to support the Regulation 19 Plan.

Notwithstanding our observations on the 'buffer' issue, the Preferred Options consultation document has responded positively to the ABCA representation by including the provision of

2,000 homes over and above local needs through the housing target set out in Policy 1, and through the reference in para 1.4 to meeting needs arising in 'other authorities' in the region.

This figure is based on the development of the Meecebrook garden community which is allocated in the Local Plan. The 'other authorities' are not defined but as discussed above, Wolverhampton has a functional relationship with Stafford in terms of migration patterns and travel to work data and should be recognised as one of those 'other authorities'.

The principle of the 2,000 contribution to meeting wider needs is therefore welcomed. However, in order to provide certainty for the progression of the Wolverhampton Local Plan and to inform our ongoing Duty to Cooperate engagement with other neighbouring Local Plans, it is critical that a Wolverhampton element of the 2,000 homes contribution is confirmed as soon as possible.

Migration patterns form a sound evidential basis to approach this issue but in calculating an appropriate and reasonable apportionment, it is also important to have regard to shortfalls arising in other areas which have a relationship with Stafford, notably the Black Country Councils and Birmingham, which has also published evidence of a housing shortfall of some 78,000 homes through the initial stages of the Birmingham Local Plan review. Analysis of migration patterns between the Black Country / Birmingham and Stafford over an extended time period (2002-19) shows that Wolverhampton movements account for some 27% of flows, Walsall having the largest share at some 33%, Birmingham 18%, Sandwell 12% and Dudley 1%.

However, whereas Wolverhampton and Sandwell have housing need figures which far outstrip the housing capacity identified in the Draft BCP, it is not currently clear if either the Dudley Local Plan or the Walsall Local Plan will generate a residual housing shortfall. The Draft BCP evidence shows that there is sufficient urban land in Dudley to meet Dudley local housing needs. This means that there is currently no evidenced shortfall in Dudley, and also that green belt sites, such as those consulted on in the Draft BCP, could provide additional housing to meet the needs of other authorities with a clear shortfall, such as Wolverhampton. The Walsall Local Plan preparation process is not due to commence until later in 2023 and any future shortfall has the potential to be met through contributions from the Shropshire and Lichfield Local Plans, which are at an advanced stage and have agreed contributions towards the Black Country as a whole. On this basis, it would be appropriate for the Stafford Local Plan contribution to be divided between Wolverhampton, Sandwell and Birmingham in proportion to their share of net migration inflows, with Wolverhampton allocated at least 47%, or 940 homes if applied to 2,000 homes.

The 2,000 contribution is based on the delivery of 3,000 homes at the Meecebrook site as part of a phased programme which will extend beyond the current Plan period. If development is in excess of this figure, (or through the review of the 'buffer' allowance a high housing land supply is identified) then potentially the 2,000 offer and the Wolverhampton share of it could be increased.

The Council is supportive of the Meecebrook allocation (Policy 1) as the principal basis for the contribution to meeting wider needs. The Council echoes the previous ABCA response which recognised the benefits of this strategic opportunity through its ability to create a new sustainable settlement providing a rich mix of new homes, employment opportunities and services. We note that in order to fully realise its potential, significant infrastructure

enhancements will be required and the Council is supportive of all efforts to secure the funding which will be necessary to deliver this project.

Turning to employment land, the Local Plan does not include an equivalent 'offer' but does contain significant 'headroom' of employment land supply (150ha) against the demand target of 80ha. This supply includes some 15ha at the Meecebrook site which is of a scale designed to address the employment needs of new residents in order to secure a degree of self-containment. Given that Meecebrook is identified as meeting needs arising in neighbouring areas, then as a minimum, it is requested that the employment land element of the development should be considered to be capable of meeting needs arising in Wolverhampton and the Black Country FEMA given the functional relationship outlined above.

In the context of the levels and location of growth set out in the Local Plan, CWC is committed to work together with Stafford District Council, other authorities across the region and Natural England, on the potential combined impact of Local Plan developments on Special Areas of Conservation (SAC), including: through the Cannock Chase SAC Partnership regarding visitor impacts on Cannock Chase SAC; and through on-going work to address potential air quality impacts on SACs across the region. The Council is therefore supportive of proposed Policy 48: Cannock Chase Special Area of Conservation (SAC) which provides protection to the SAC through the requirements of any development within a 15km radius of the SAC providing appropriate avoidance and/or mitigation of any adverse effects.

We trust that these comments are helpful and will be considered by the Council as part of the preparation of the next stage of the Local Plan.

Appendix 3

Interim Officer Response to Birmingham Local Plan Issues and Options Consultation

Planning Policy
Birmingham City Council Planning
PO Box 28
Birmingham
B1 1TU

Dear Planning Policy Team,

Birmingham Local Plan Issues and Options consultation

This letter is an officer response to the Local Plan Issues and Options consultation on behalf of the City of Wolverhampton Council (CWC). The letter also provides a response to the 3rd October letter from Ian Macleod confirming the commencement of the consultation and seeking the views of the Council on a number of issues related to how the housing shortfall could be accommodated.

This response will be considered by the Councils Cabinet at its next meeting on 14th December and we will contact you again following that meeting.

In summary, CWC welcomes the progress made with the preparation of a new Local Plan for the City, which will replace the out-of-date adopted Birmingham Plan (BP). Rather than responding to the detailed questions set out in the consultation document, this letter focusses on strategic issues that we ask are considered to inform the next stage of the Plan preparation process. These issues are set out below:

1. CWC notes the significant scale of **housing need** and associated shortfall being identified through the BLP. In responding to the housing shortfall, we encourage the testing of all of the options listed in paras 4.17-4.35 of the consultation document. For Option 5, any potential displacement of employment activity should be accommodated within Birmingham. This is important in order to avoid the possibility of such displacement creating additional demand for employment land in Wolverhampton and the Black Country, given the shortfall of employment land identified through work on the Black Country Plan.
2. CWC would also ask BCC to clarify that it considers the commencement of the BLP review and recognition of the BLP 2020-2041 housing shortfall effectively removes any requirement to address the historic 2011-31 shortfall under the out-of-date adopted BP. This is because the current local housing need method now supercedes the out-of-date BP housing target for Birmingham. There would also be an overlap between the remaining BP period and the BLP period, therefore the two shortfalls cannot co-exist.
3. The 3rd October letter requested a view on the possibility of a Wolverhampton contribution to addressing the BLP housing shortfall. I confirm that, on the basis of work progressed on the Black Country Plan, Wolverhampton itself has a significant shortfall of land to meet its own needs and so there is no potential to bring forward

additional land to meet needs arising in Birmingham. Given the scale of the shortfall, it is clear that a regional approach is required and we encourage the Council to continue to engage in the programme of work being discussed through the Greater Birmingham and Black Country Housing Market Area (HMA) Group, as detailed in the draft Statement of Common Ground (SoCG) recently published by South Staffordshire Council as part of its Regulation 19 consultation (<https://www.sstaffs.gov.uk/doc/183834/name/DtC%20Full%20Topic%20Paper%20Nov%202022.pdf/>) (Appendix B).

4. Alongside this work, we ask that the Council revisit and clarify the appropriate sequence of release of land to meet shortfalls through the Duty to Cooperate process to ensure the approach is consistent with para 141 of the NPPF relating to the status of the green belt – the appropriate sequence being: non-green belt land in Birmingham; non-green belt land in neighbouring authorities; green belt land in Birmingham; green belt land in neighbouring authorities. Current statements in the Issues and Options Report are not consistent with this approach as they suggest that a Birmingham green belt review would not take place until the capacity of neighbouring authorities (including green belt land) has been exhausted. Indeed, and related to point (3) above, given the extent of unmet need with the HMA, many authorities across the HMA have already exhausted potential options to meet their own needs along with the needs of neighbours. As such it is considered highly likely that the Council will need to consider further opportunities within the Green Belt to deliver its housing need. The Council should be proactive about this and make clear from this early stage of plan-making that it will likely require an updated review of the potential for Green Belt land within Birmingham to deliver development needs.
5. Turning to **employment land**, CWC notes the scale of need (221.96ha) and current shortfall (73.6ha) identified through the HEDNA and reflected in para 7.6 of the consultation document. We encourage the progression of the work outlined in para 7.8 to identify additional sources of supply to respond to this need, and support the suggestion in para 7.8 that a proportion (53ha) of land at the West Midlands Interchange (WMI) site in South Staffordshire District could be reasonably attributed towards meeting Birmingham needs. This would significantly reduce the shortfall and is of a scale consistent with the approach set out in the Black Country Plan (BCP) evidence.

We would be happy to discuss any of the issues raised in this letter in more detail and CWC is keen to engage closely with the Council at all stages of the preparation of the Local Plan.

CITY OF WOLVERHAMPTON COUNCIL	Cabinet 14 December 2022
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Report title	City of Wolverhampton Council Enforcement Policy in Relation to the Relevant Letting Agency Legislation	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Steve Evans City Environment and Climate Change	
Key decision	Yes	
In forward plan	Yes	
Wards affected	All Wards	
Accountable Director	John Roseblade, Director City Housing and Environment	
Originating service	Commercial Regulation	
Accountable employee	Chris Howell Tel Email	Commercial Regulation Manager 01902 554554 Chris.howell@wolverhampton.gov.uk
Report to be/has been considered by	City Housing and Environment Leadership Team	15 November 2022

Recommendation for decision:

The Cabinet is recommended to:

1. Approve the City of Wolverhampton Council Enforcement Policy in Relation to the Relevant Letting Agency Legislation.

1.0 Purpose

- 1.1 To inform Cabinet of the provisions of the relevant letting agency legislation applicable to landlords and property agents concerning displaying fees, prohibited fees, being members of a redress scheme and belonging to a client money protection scheme.
- 1.2 To seek approval of the City of Wolverhampton Council Enforcement Policy in Relation to the Relevant Letting Agency Legislation.

2.0 Background

- 2.1 The Tenant Fees Act 2019 has been introduced to regulate the fees that letting agents and landlords can charge tenants, any fees that are not specifically permitted are prohibited. The Act allows the enforcement authority to impose a financial penalty, not exceeding £5,000 for breaches in relation to permitted fees and repayment of holding deposits. Should further breaches occur within five years, the enforcement authority may prosecute or impose a financial penalty not exceeding £30,000.
- 2.2 The Consumer Rights Act 2015 has been amended by the Tenant Fees Act 2019, it now contains provisions to ensure that letting agents publicise their fees. The Act allows the enforcement authority to impose a financial penalty not exceeding £5,000 for failure to comply with the requirement to publicise fees.
- 2.3 The Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014, requires agents to belong to a redress scheme. The schemes can investigate disputes between tenants, agents and landlords and can order agents to reimburse fees or pay compensation for unfair practices. The Order also allows the enforcement authority to require an agent to pay the authority a financial penalty not exceeding £5000 for failing to be a member of a redress scheme.
- 2.4 The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019, requires that any property agent that holds client money must be a member of a client money protection scheme. The Regulations also allow the enforcement authority to impose a financial penalty, not exceeding £30,000 for failing to be a member of a client money protection scheme, or not exceeding £5,000 for failing to provide the required information in relation to their membership.
- 2.5 The Tenant Fees Act 2019 and other relevant lettings agency legislation are unusual in that they contain provisions in relation to the charging or imposition of financial penalties without the ability of the enforcing authority to prosecute. The only provision to prosecute is that within the Tenant Fees Act 2019 for repeated breaches within five years.
- 2.6 Statutory enforcement guidance has been issued:
 - A. Tenant Fees Act 2019 - Statutory Guidance For Enforcement Authorities.

B. Statutory guidance - Mandatory client money protection: enforcement guidance for local authorities.

- 2.7 The statutory guidance states that enforcing authorities should develop and document their own enforcement policy on issuing financial penalties.
- 2.8 The Tenant Fees Act 2019 requires the appointment of a lead enforcement authority, this is currently Bristol City Council, operating as the National Trading Standards Letting and Estate Agency Team (NTSLEAT).
- 2.9 The statutory guidance further states enforcement authorities should consult with the lead enforcement authority to ensure their policies are in line with the national approach to promote consistency, alongside local priorities.
- 2.10 As the lead enforcement authority, NTSLEAT at Bristol City Council has issued such an enforcement policy document, it is the model which it is anticipated that other authorities will utilise.
- 2.11 City of Wolverhampton Council is committed to the Joint Black Country Regulator Operating Framework 2021 along with Walsall Metropolitan Borough Council, Sandwell Metropolitan Borough Council and Dudley Metropolitan Borough Council. The scope of the framework includes trading standards services who are the enforcement authorities for the relevant letting agency legislation. An important aspect of the framework is consistency across the member authorities. The framework is provided in background papers. Each authority has either adopted the Bristol City Council Enforcement Policy in Relation to the Relevant Letting Agency Legislation policy or are intending to do so.

3.0 Proposal

- 3.1 It is proposed that City of Wolverhampton Council adopt the Bristol City Council Enforcement Policy in Relation to the Relevant Letting Agency Legislation. The policy has been renamed as the City of Wolverhampton Enforcement Policy in Relation to the Relevant Letting Agency Legislation, minor amendments have been made to remove references that apply only to Bristol City Council's role the Lead Enforcement Authority. The policy is at Appendix 1.
- 3.2 There is no statutory requirement to undertake external consultation unless the policy departs from the Bristol model, which the proposed City of Wolverhampton Council policy does not.
- 3.3 Internal consultation has taken place with Trading Standards, Private Sector Housing and Legal Services, in order to develop and agree the preferred route to policy. Further consultation would be meaningless.

4.0 Evaluation of alternative options

- 4.1 One option would be to not adopt an enforcement policy in relation to the relevant letting agency legislation. To enforce the legislation the enforcing authority is required to adopt an enforcement policy. There is a statutory duty to enforce the relevant lettings agency legislation. By not adopting an enforcement policy the City of Wolverhampton Council would be in breach of its statutory duties.
- 4.2 Another option would be to develop a bespoke enforcement policy in relation to the relevant letting agency legislation. This would allow the City of Wolverhampton to comply with its statutory duty to enforce the legislation. However, it would likely lead to enforcement being inconsistent with our closest similar neighbours.

5.0 Reasons for decision

- 5.1 The City of Wolverhampton Council requires an enforcement policy in relation to the relevant letting agency legislation to be able to enforce the legislation, it does not currently have such a policy.
- 5.2 Adopting the Bristol City Council Enforcement Policy in Relation to the Relevant Letting Agency Legislation will allow the City of Wolverhampton Council to enforce the legislation in a consistent manner.

6.0 Financial implications

- 6.1 All costs associated with the delivery of enforcement of the relevant letting agency legislation can be accommodated within Commercial Regulation Services revenue budgets.
- 6.2 Any civil penalties charged or imposed are required to be retained by the enforcement authority and used for the purposes of its enforcement functions in relation to the private rented sector or must be paid to the Secretary of State.
[LD/07112022/V]

7.0 Legal implications

- 7.1 There is a statutory duty to enforce the relevant lettings agency legislation.
- 7.2 To enforce the legislation the enforcing authority is required to adopt and enforcement policy.
[CS/09112022/1]

8.0 Equalities implications

- 8.1 There is no data readily available that would demonstrate for either letting agents, landlords or tenants that the introduction of this policy would have any greater impact on any equalities group.

9.0 All other implications

9.1 There are no other implications arising from this report.

10.0 Schedule of background papers

10.1 Black Country Regulators Operating Framework 2021

<https://www.wolverhampton.gov.uk/sites/default/files/2021-11/Black%20Country%20Regulators%20Operating%20Framework.pdf>

10.2 Tenant Fees Act 2019 - Statutory Guidance For Enforcement Authorities

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/922896/Tenancy_Fees_Act_-_Statutory_guidance_for_enforcement_authorities.pdf

10.3 Statutory guidance - Mandatory client money protection: enforcement guidance for local authorities

<https://www.gov.uk/government/publications/mandatory-client-money-protection/mandatory-client-money-protection-enforcement-guidance-for-local-authorities>

11.0 Appendices

11.1 Appendix 1: Draft City of Wolverhampton Council Enforcement Policy in Relation to the Relevant Letting Agency Legislation

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City of Wolverhampton Council Enforcement Policy in Relation to the Relevant Letting Agency Legislation

December 2022



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Foreword

Bristol City Council is the Lead Authority for the purposes of Section 26 of the Tenant Fees Act 2019. Their policy the Bristol City Council Enforcement Policy In Relation To The Relevant Letting Agency Legislation, is the model which it is anticipated that other authorities will utilise. Any authority not adopting this is required to consult with the lead authority before implementing their own policy. This policy is therefore based on the Bristol City Council Policy.

Introduction

City of Wolverhampton Council ("CWC") has adopted this policy on deciding financial penalties and the appropriateness of prosecution as an alternative to financial penalties under the relevant letting agency legislation.

It applies in relation to any decision made by the Council in its capacity as Enforcement Authority under Section 6 of the Tenant Fees Act 2019.

For clarity, "relevant letting agency legislation" means:

1. The Tenant Fees Act 2019, "the TFA 2019"
2. Chapter 3 of Part 3 of the Consumer Rights Act 2015 as it applies in relation to dwelling houses in England
3. An order under Section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013 ¹; and
4. Regulations under Sections 133 – 135 of the Housing and Planning Act 2016 ².

1. The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014, made under the Enterprise and Regulatory Reform Act 2013
2. The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019, made under the Housing and Planning Act 2016

1. Pertaining to The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014

2. Pertaining to The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019

Sanctions

The Tenant Fees Act 2019 provides that enforcement authorities may impose financial penalties of up to £30,000 depending on the breach as follows:

- a. In respect of a first breach of s1 & s2, or a breach of Schedule 2 of the TFA 2019, a financial penalty not exceeding £5,000.
- b. Under s12 of the TFA 2019 a second or subsequent breach of S.1 or S.2 within 5 years of the previous breach provides for a financial penalty not exceeding £30,000.00 and there is alternative power to prosecute in the Magistrates Court where an unlimited fine may be imposed.

In respect of a failure of Letting Agents to publicise their fees as required by s83(3) of the Consumer Rights Act 2015 a financial penalty not exceeding £5,000.

In respect of a failure by any person engaged in Letting Agency or Property Management work who fails to hold membership of a Redress Scheme as required by Article 3 Redress Schemes for Lettings Agency Work and Property Management Work (requirement to belong to a Scheme etc.) England) Order 2014 (in respect of Lettings Agency work) or Article 5 (in respect of property management work) to a financial penalty not exceeding £5,000. (Note that it is not sufficient to simply register for redress – the correct category of membership must be obtained depending on the work carried out.)

In respect of Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019:

- a. a failure by a property agent who holds client money to belong to an approved or designated Client Money Protection (“CMP”) Scheme as required by Regulation 3, a financial penalty not exceeding £30,000 or
- b. a failure to display a certificate of membership; or publish a copy of that certificate on the relevant website (where one exists); or produce a copy of the certificate free of charge to any person reasonably requiring it as required; or notify any client in writing within 14 days of a change in the details of a underwriter to the CMP scheme or that the membership of the CMP scheme has been revoked, as required by Regulation 4, a financial penalty not exceeding £5,000.

The Council will determine what is the most appropriate and effective sanction and whether it is appropriate to impose a financial penalty or prosecute having due regard to the Black Country Local Authorities Enforcement Policy.

Other Types of Enforcement Action that may be taken

In appropriate circumstances consideration will be given to less formal action such as warning letters or advice, in an effort to secure compliance, and will be done so in accordance with the relevant Black Country Local Authorities Enforcement Policy.

Statutory Guidance

The Ministry of Housing, Communities & Local Government ("MHCLG") (now The Department for Levelling Up, Housing & Communities - "DHLUC") has published guidance for enforcement authorities in respect of the Tenant Fees Act 2019 – "[Tenant Fees Act 2019: Statutory Guidance for enforcement authorities](#)" and in respect of Client Money Protection Requirements – "[Mandatory Client money protection for property agents – enforcement guidance for local authorities](#)"

This is statutory guidance to which enforcement authorities must have regard to when considering imposing a financial penalty. This statutory guidance recommends certain factors that an enforcement authority should take into account when deciding on the level of financial penalty to impose and further recommends that enforcement authorities develop and document their own Policy on determining the appropriate level of financial penalty in a particular case.

Determining the Level of the Financial Penalty

In accordance with the provisions of the TFA & CMP statutory guidance, the following factors should be considered by an enforcement authority when determining the level of penalty to impose for a breach of relevant letting agency legislation:

- a. Severity of the breach
- b. Punishment of the landlord or agent
- c. Aggravating and mitigating factors
- d. Fairness and proportionality

Each of these factors are explained in more detail in the statutory guidance which you should refer to for each penalty you consider. For ease, the same considerations will be applied in cases of redress membership and breaches of S.83 Consumer Rights Act 2015.

Although the Council has therefore a wide discretion in determining the appropriate level of financial penalty in any particular case, regard has been given to the statutory guidance when making this policy.

This policy has also been informed by the principles contained in the Sentencing Council's 'Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Offences Definitive Guideline'. The Council believes this to be a fair, relevant and reasonable model to follow.

Appendix 1 of this policy contains the processes that the Council will use in order to determine the level of financial penalty under the TFA 2019 and other relevant letting agency legislation. All stages subsequent to the issue of a Notice of Intent are subject to statutory time limits and the suspension of the process should an appeal be made to the First Tier Tribunal.

Appendix 1 – The Council’s process for determining the level of penalty to set

STEP ONE – Determining the category

The Council will determine the breach category using only the culpability and category of harm factors below. Where a breach does not fall squarely into a category, individual factors may require a degree of weighting to make an overall assessment. Other discretionary factors may also be applied in order to reflect consistency and may consider decisions in other UK jurisdictions where they contain some relevant and persuasive content.

Culpability

Very high: Where the Landlord or Agent intentionally breached, or flagrantly disregarded, the law or has/had a high public profile³ and knew their actions were unlawful.

High: Actual foresight of, or wilful blindness to, risk of a breach but risk nevertheless taken.

Medium: Breach committed through act or omission which a person exercising reasonable care would not commit.

Low: Breach committed with little fault, for example, because:

- significant efforts were made to address the risk although they were inadequate on the relevant occasion.
- there was no warning/circumstance indicating a risk.
- failings were minor and occurred as an isolated incident.

Harm

The following factors relate to both actual harm and risk of harm. Dealing with a risk of harm involves consideration of both the likelihood of harm occurring and the extent of it if it does.

Category 1 – High Likelihood of Harm

- Serious adverse effect(s) on individual(s) and/or having a widespread impact due to the nature and/or scale of the Landlord’s or Agent’s business.
- High risk of an adverse effect on individual(s) – including where persons are vulnerable⁴.

Category 2 – Medium Likelihood of Harm

- Adverse effect on individual(s) (not amounting to Category 1).
- Medium risk of an adverse effect on individual(s) or low risk of serious adverse effect.
- Tenants and/or legitimate landlords or agents substantially undermined by the conduct.
- The Council’s work as a regulator is inhibited.
- Tenant or prospective tenant misled.

Category 3 – Low Likelihood of Harm

- Low risk of an adverse effect on actual or prospective tenants.
- Public misled but little or no risk of actual adverse effect on individual(s).

3. Which may include any significant role in a trade or business representative organisation

4. A wide definition of vulnerability will be used. See Appendix 2 for a non-exhaustive list

We will define harm widely and victims may suffer financial loss, damage to health or psychological distress (especially vulnerable cases). There are gradations of harm within all of these categories.

The nature of harm will depend on personal characteristics and circumstances of the victim and the assessment of harm will be an effective and important way of taking into consideration the impact of a particular breach on the victim.

In some cases no actual harm may have resulted and the enforcement authority will be concerned with assessing the severity of the misconduct; it will consider the likelihood of harm occurring and the gravity of the harm that could have resulted.

To the community

Some breaches cause harm to the community at large (instead of or as well as to an individual victim) and may include economic loss, harm to public health, or interference with the administration of justice.

STEP TWO – Starting point and category range

Having determined the category that the breach falls into, the Council will refer to the following starting points to reach an appropriate level of civil penalty within the category range. The Council will then consider further adjustment within the category range for aggravating and mitigating features.

Obtaining financial information

The statutory guidance advises that local authorities can use their powers to, as far as possible, make an assessment of a Landlord or Agent's assets and any income (not just rental or fee income) they receive when determining an appropriate penalty. The Council will use such lawful means as are at its disposal to identify where assets might be found.

In setting a financial penalty, the Council may conclude that the Landlord or Agent is able to pay any financial penalty imposed unless the Council has obtained, or the Landlord or Agent has supplied, any financial information to the contrary. The subject of a Final Notice, or a Notice of Intent where the subject does not challenge it, will be expected to disclose to the Council such data relevant to his/her financial position to facilitate an assessment of what that person can reasonably afford to pay. Where the Council is not satisfied that it has been given sufficient reliable information, the Council will be entitled to draw reasonable inferences as to the person's means from evidence it has received, or obtained through its own enquiries, and from all the circumstances of the case which may include the inference that the person can pay any financial penalty.

Starting points and ranges

The tables in Appendices 4-9 below give the starting points, minimum and maximum financial penalties for each harm category and level of culpability for each type of breach:

- Appendix 4 First breach in respect of a Prohibited Payment.
- Appendix 5 Second & subsequent breach in respect of a Prohibited Payment.
- Appendix 6 Breach of Publication of Fees requirements.
- Appendix 7 Breach in respect of membership of a Redress Scheme.
- Appendix 8 Breach in respect of membership of a Client Money Protection Scheme
- Appendix 9 Breach of transparency requirements of membership of a Client Money Protection Scheme (Regulation 4).

Context

Below is a list of some, but not all factual elements that provide the context of the breach and factors relating to the Landlord or Agent. The Council will identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point. In particular, relevant recent convictions⁵ are likely to result in a substantial upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range which will not exceed the statutory maximum permitted in any case.

Factors increasing seriousness

Aggravating factors:

- Previous breaches of the TFA 2019 or relevant letting agency legislation
- Previous convictions, having regard to:
 - the nature of the offence to which the conviction relates and its relevance to the current breach; and,
 - the time that has elapsed since the conviction.

Other aggravating factors may include:

- Motivated by financial gain.
- Deliberate concealment of illegal nature of activity.
- Established evidence of wider/community impact.
- Obstruction of the investigation.
- Record of poor compliance.
- Refusal of advice or training or to become a member of an accreditation scheme.

5. See Appendix 3 for a list of relevant convictions

Factors reducing seriousness or reflecting personal mitigation

- No previous or no relevant/recent breaches.
- No previous convictions or no relevant/recent convictions.
- Steps voluntarily taken to remedy problem.
- High level of co-operation with the investigation, beyond that which will always be expected.
- Good record of relationship with tenants.
- Self-reporting, co-operation and acceptance of responsibility.
- Good character and/or exemplary conduct.
- Mental disorder or learning disability, where linked to the commission of the breach.
- Serious medical conditions requiring urgent, intensive or long-term treatment and supported by medical evidence.

STEP THREE - General principles to consider in setting a penalty

The Council will finalise the appropriate level of penalty so that it reflects the seriousness of the offence and the Council must take into account the financial circumstances of the Landlord or Agent if representations are made by the Landlord or Agent following the issue of a Notice of Intent.

The level of financial penalty should reflect the extent to which the conduct fell below the required standard. The financial penalty should meet, in a fair and proportionate way, the objectives of punishment, deterrence and the removal of gain derived through the commission of the breach; it should not be cheaper to breach than to take the appropriate precautions and a fundamental principle involved is that there should be no financial gain to the perpetrator from the commission of the breaches.

If issuing a financial penalty for more than one breach, or where the offender has already been issued with a financial penalty, The Council will consider whether the total penalties are just and proportionate to the offending behaviour and will have regard to the factors in STEP EIGHT below.

STEP FOUR - Issue Notice of Intent

In respect of prohibited payments, publication of fees etc and client money protection membership and transparency requirements The Council will issue a Notice of Intent before the end of the period of 6 months beginning with the first day on which the authority has sufficient evidence of the breach. In respect of redress membership, the notice of intent must be served within 6 months of the date on which the enforcement authority is first satisfied of the failure to comply with Article 3 or Article 5. If the breach is ongoing the 6-month deadline continues until the breach ceases. A Notice of Intent can be served spontaneously.

While there are slight variations in the Statutory requirements according to which breach is being addressed a Notice of Intent will contain the amount of the proposed penalty, the reason for imposing the penalty and information about the right to make representations concerning the penalty. In respect of the TFA 2019, the date of service is also required on the Notice of Intent.

STEP FIVE – Consideration of representations and review of financial penalty where appropriate

The Council should review the penalty and, if necessary, adjust the initial amount reached at STEP FOUR, and represented in the Notice of Intent, to ensure that it fulfils the general principles set out below.

Any quantifiable economic benefit(s) derived from the breach, including through avoided costs or operating savings, should normally be added to the total financial penalty arrived at in step two, providing it doesn't increase the penalty over the prescribed maximum. Where this is not readily available, the Council may draw on information available from enforcing authorities and others about the general costs of operating within the law. Whether the penalty will have the effect of putting the offender out of business will be relevant but in some serious cases this might be an acceptable outcome.

STEP SIX – Reductions

The Council will consider any factors which indicate that a reduction in the penalty is appropriate and in so doing will have regard to the following factors relating to the wider impacts of the financial penalty on innocent third parties; such as (but not limited to):

- The impact of the financial penalty on the Landlord or Agent's ability to comply with the law or make restitution where appropriate.
- The impact of the financial penalty on employment of staff, service users, customers and the local economy.

The following factors will be considered in setting the level of reduction. When deciding on any reduction in a financial penalty, consideration will be given to:

- The stage in the investigation or thereafter when the offender accepted liability.
- The circumstances in which they admitted liability.
- The degree of co-operation with the investigation.

The maximum level of reduction in a penalty for an admission of liability will be one-third. In some circumstances there will be a reduced or no level of discount. This may occur for example where the evidence of the breach is overwhelming or there is a pattern of breaching conduct.

Any reduction should not result in a penalty which is less than the amount of gain from the commission of the breach itself.

STEP SEVEN - Additional actions

In all cases the Council must consider whether to take additional action. These may include further enforcement action itself or reference to other organisations where appropriate.

STEP EIGHT – Totality of breaching conduct

Where more than one financial penalty has been considered, the Council should consider the following guidance from the Sentencing Council's definitive guideline on 'Offences Taken into Consideration and Totality' which appears to the Council to be an appropriate reference and guide.

As the total financial penalty is inevitably cumulative the Council should determine the financial penalty for each individual breach based on the seriousness of the breach and taking into account the circumstances of the case including the financial circumstances of the Landlord or Agent so far as they are known, or appear, to the Council.

The Council should add up the financial penalties for each offence and consider if they are just and proportionate. If the aggregate total is not just and proportionate the Council should consider how to reach a just and proportionate total financial penalty. There are a number of ways in which this can be achieved.

For example:

Where a Landlord or Agent is to be penalised for two or more breaches or where there are multiple breaches of a repetitive kind, especially when committed against the same person, it will often be appropriate to impose for the most serious breach a financial penalty which reflects the totality of the conduct where this can be achieved within the maximum penalty for that breach. No separate penalty should be imposed for the other breaches. Where a Landlord or Agent is to be penalised for two or more breaches that arose out of different incidents, it will often be appropriate to impose separate financial penalties for each breach.

The Council should add up the financial penalties for each breach and consider if they are just and proportionate. If the aggregate amount is not just and proportionate the Council should consider whether all of the financial penalties can be proportionately reduced. Separate financial penalties should then be imposed.

Where separate financial penalties are imposed, the Council must take care to ensure that there is no double-counting.

STEP NINE – Recording the decision

The officer making a decision about a financial penalty will record their decision giving reasons for coming to the amount of financial penalty that will be imposed.

Appendix 2 – Non exhaustive list of vulnerable people

- Young adults and children.
- Persons vulnerable by virtue of age.
- Persons vulnerable by virtue of disability or sensory impairment.
- People on a low income.
- Persons with a drug or alcohol addiction.
- Victims of domestic abuse.
- Children in care or otherwise vulnerable by virtue of age.
- People with complex health conditions.
- People exploited where English is not their first language.
- Victims of Trafficking or sexual exploitation.
- Refugees.
- Asylum seekers People at risk of harassment or eviction.
- People at risk of homelessness.

Appendix 3 – Non exhaustive list of relevant offences / breaches

Housing law or landlord and tenant related

Offences under:

- The Public Health Acts of 1936 and 1961.
- The Building Act 1984.
- The Environmental Protection Act 1990.
- The Town and Country Planning Act 1990.
- The Prevention of Damage by Pests Act 1949.
- The Protection from Eviction Act 1977.
- The Local Government (Miscellaneous Provisions) Acts of 1982 and 1976.
- The Housing Grants, Construction and Regeneration Act 1996.
- The Local Government and Housing Act 1989.
- The Housing Act 2004.
- The Consumer Protection from Unfair Trading Regulations 2008.

Offences involving fraud

Offences in which the victim has been deprived of money, property or other benefit by misrepresentation/deception on the part of the offender including:-

- Theft.
- Burglary.
- Fraud.
- Benefit fraud (particularly where tenants are in receipt of Housing Benefit).
- Conspiracy to defraud.
- Obtaining money or property by deception.
- People trafficking.
- Being struck off as a company director.

Offences involving violence

A conviction for the offence of:

- Murder.
- Manslaughter.
- Arson.
- Malicious wounding or grievous bodily harm.
- Grievous bodily harm with intent.
- Actual bodily harm.
- Grievous bodily harm.
- Robbery.
- Criminal damage where the intent was to intimidate or was racially aggravated.
- Common assault.
- Common assault which is racially aggravated.
- Assault occasioning actual bodily harm.

- Possession of an offensive weapon.

- Possession of a firearm.

Offences involving drugs

Consideration should be given to the nature of the offence and what bearing it could have on the Landlord or Agents business activities. The nature, quantity, purity and class of drugs should be taken into account. In addition where an offence of possession with intent to supply is involved regard should be had to the role and importance of, the subject in the supply chain.

Offences involving sexual offences

An offence contained in schedule 3 of the Sexual Offences Act 2003.

Unlawful discrimination

Unlawful discrimination can include findings of an Industrial Tribunal on unlawful employment practice such as discrimination under the Disability Discrimination Act. Consideration should be given to the nature of the unlawful discrimination and what bearing it could have on the management of a licensable property.

Other offences

Modern Slavery / Human Trafficking Offences involving the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control of another person, for the purpose of exploitation.

Appendix 4 – Financial Penalty in the case of a first breach in respect of Prohibited Payments

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5,000.

	Range	
Starting point (£)	Min (£)	Max (£)

Low culpability

Harm category 3	1,250	250	2,250
Harm category 2	1,500	500	2,500
Harm category 1	1,750	750	2,750

Medium culpability

Harm category 3	2,000	1,000	3,000
Harm category 2	2,250	1,250	3,250
Harm category 1	2,500	1,500	3,500

High culpability

Harm category 3	2,750	1,750	3,750
Harm category 2	3,000	2,000	4,000
Harm category 1	3,250	2,250	4,250

Very high culpability

Harm category 3	3,500	2,500	4,500
Harm category 2	3,750	2,750	4,750
Harm category 1	4,000	3,000	5,000

Appendix 5 – Financial Penalty in the case of a second or subsequent breach in respect of Prohibited Payments within 5 years of a previous breach

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £30,000.

Starting point (£)	Range	
	Min (£)	Max (£)

Low culpability

Harm category 3	3,500	2,000	8,000
Harm category 2	6,500	4,000	10,000
Harm category 1	8,500	4,500	15,000

Medium culpability

Harm category 3	6,500	4,750	17,000
Harm category 2	10,500	5,000	20,000
Harm category 1	12,500	5,500	22,000

High culpability

Harm category 3	10,500	5,500	20,000
Harm category 2	15,000	6,250	24,000
Harm category 1	18,000	7,000	26,000

Very high culpability

Harm category 3	15,000	7,000	24,000
Harm category 2	17,500	7,250	28,000
Harm category 1	20,000	7,500	30,000

Appendix 6 – Financial Penalty in the case of a breach in respect of Publication of Fees

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5,000.

	Range	
Starting point (£)	Min (£)	Max (£)

Low culpability

Harm category 3	1,250	250	2,250
Harm category 2	1,500	500	2,500
Harm category 1	1,750	750	2,750

Medium culpability

Harm category 3	2,000	1,000	3,000
Harm category 2	2,250	1,250	3,250
Harm category 1	2,500	1,500	3,500

High culpability

Harm category 3	2,750	1,750	3,750
Harm category 2	3,000	2,000	4,000
Harm category 1	3,250	2,250	4,250

Very high culpability

Harm category 3	3,500	2,500	4,500
Harm category 2	3,750	2,750	4,750
Harm category 1	4,000	3,000	5,000

Appendix 7 – Financial Penalty in the case of a breach in respect of Membership of a Redress Scheme

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5,000.

Starting point (£)	Range	
	Min (£)	Max (£)

Low culpability

Harm category 3	1,250	250	2,250
Harm category 2	1,500	500	2,500
Harm category 1	1,750	750	2,750

Medium culpability

Harm category 3	2,000	1,000	3,000
Harm category 2	2,250	1,250	3,250
Harm category 1	2,500	1,500	3,500

High culpability

Harm category 3	2,750	1,750	3,750
Harm category 2	3,000	2,000	4,000
Harm category 1	3,250	2,250	4,250

Very high culpability

Harm category 3	3,500	2,500	4,500
Harm category 2	3,750	2,750	4,750
Harm category 1	4,000	3,000	5,000

Appendix 8 – Financial Penalty in the case of a breach in respect of a failure to obtain membership of a Client Money Protection Scheme

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £30,000.

	Range	
Starting point (£)	Min (£)	Max (£)

Low culpability

Harm category 3	3,500	2,000	8,000
Harm category 2	6,500	4,000	10,000
Harm category 1	8,500	4,500	15,000

Medium culpability

Harm category 3	6,500	4,750	17,000
Harm category 2	10,500	5,000	20,000
Harm category 1	12,500	5,500	22,000

High culpability

Harm category 3	10,500	5,500	20,000
Harm category 2	15,000	6,250	24,000
Harm category 1	18,000	7,000	26,000

Very high culpability

Harm category 3	15,000	7,000	24,000
Harm category 2	17,500	7,250	28,000
Harm category 1	20,000	7,500	30,000

Appendix 9 – Financial Penalty in respect of a breach of transparency requirements of membership of a Client Money Protection Scheme (Regulation 4)

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5,000.

	Range	
Starting point (£)	Min (£)	Max (£)

Low culpability

Harm category 3	1,250	250	2,250
Harm category 2	1,500	500	2,500
Harm category 1	1,750	750	2,750

Medium culpability

Harm category 3	2,000	1,000	3,000
Harm category 2	2,250	1,250	3,250
Harm category 1	2,500	1,500	3,500

High culpability

Harm category 3	2,750	1,750	3,750
Harm category 2	3,000	2,000	4,000
Harm category 1	3,250	2,250	4,250

Very high culpability

Harm category 3	3,500	2,500	4,500
Harm category 2	3,750	2,750	4,750
Harm category 1	4,000	3,000	5,000

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Wolverhampton WV1 1SH

CITY OF WOLVERHAMPTON COUNCIL	Cabinet 14 December 2022
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Report title	Expansion of Broadmeadow Special School	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Chris Burden Education, Skills and Work	
Key decision	Yes	
In forward plan	Yes	
Wards affected	All Wards	
Accountable Director	Emma Bennett, Executive Director of Families	
Originating service	Children's Services	
Accountable employee	Bill Hague	Head of Service School Business and Support Services
	Tel	01902 555 100
	Email	bill.hague@wolverhampton.gov.uk
Report to be/has been considered by	Children's & Education Leadership Team	17 November 2022
	Strategic Executive Board	29 November 2022

Recommendations for decision:

The Cabinet is recommended to:

1. Approve the proposal to fund additional accommodation to meet pupil need and demand at Broadmeadow Special School (Phase 1).
2. Authorise Legal Services to enter into or execute or seal any legal documentation in relation to this scheme to protect the Council's interests.
3. Delegate authority to the Cabinet Member for Education, Skills and Work, in consultation with Executive Director of Families, to approve the virement from the currently approved capital budget High Needs Capital Programme – Future Schemes to a budget for this specific project, once the actual level of budget required is finalised.

Recommendations for noting:

The Cabinet is asked to note:

1. That Central Learning Partnership Trust (CLPT) have an existing agreement with the Local Authority to lease the ground floor of the Whitmore Reans Strengthening Families Hub, which is adjacent to Broadmeadow Special School. This lease would need to be extended in addition to the provision of additional accommodation under Phase 1 of the scheme.
2. That Phase 1 is intended to be a temporary solution. The proposed Phase 2 of the scheme would see Broadmeadow Special School further increase in capacity to meet additional demand and would be relocated to another site in purpose-built provision. Investigations regarding Phase 2 are currently ongoing.
3. That any proposal to relocate Broadmeadow Special School and increase in capacity would be presented at a future Cabinet meeting.

1.0 Purpose

- 1.1 Broadmeadow Special School is currently commissioned for 75 places for children with special educational needs. This is an increase from the original 54 commissioned places and therefore additional accommodation is required.
- 1.2 This report seeks approval to fund Phase 1 of the project which would provide two temporary modular buildings to address the shortage of accommodation and to re-purpose parking spaces. This will be in addition to extending the lease agreement so the school can continue to occupy the ground level of the Whitmore Reans Strengthening Families Hub.

2.0 Background

- 2.1 Local authorities must ensure that there are sufficient good school places for all pupils, including those with Special Educational Needs and Disabilities (SEND).
- 2.2 The Children and Families Act 2014 requires local authorities to keep provision for children and young people with SEND under review (including its sufficiency).
- 2.3 In order to enable 'Strong families where children grow up well and achieve their full potential', one of Wolverhampton's key council priorities within the Council Plan and underpinned by the SEND Strategy 2020 – 2023, it is imperative that sufficient good school places are available for all pupils including those with Special Educational Needs and Disabilities (SEND).
- 2.4 The 'City of Wolverhampton Education Place Planning 2020-2022, A Place for Every Child' outlines the Council's strategic policy in relation to the planning and organisation of school provision across the City. The strategy recommends that the development of provision for students with SEND is guided by the following principles:
 - A transparent choice of provision and providers is available to students and families.
 - Clear and consistent pathways are offered within Wolverhampton's high needs estate.
 - A broad range of high needs provision, including a comprehensive graduated response, is available within the city.
 - High quality, local solutions are developed to support a reduction in the required number of out of city placements.
- 2.5 As outlined within the approved Wolverhampton SEND Joint Commissioning Strategy 2022-25, the Council have a vision to become a highly inclusive City working with children, young people, and their families with SEND so that they can achieve their full potential.
- 2.6 There has been an increase in the number of children with Education Health and Care Plans (EHCP) that require specialist provision. Following the Covid pandemic younger

children are presenting with more complex needs and require suitable provision to support their education. The increase in places at Broadmeadow Special School helps cater for this and aligns with Wolverhampton SEND Joint Commissioning Strategy 2022-25 for children to achieve their full potential.

- 2.7 The Local Authority receives capital grant funding for High Needs provision (High Needs Capital Fund) from the Department of Education (DfE) to support the provision of places for pupils with SEND.
- 2.8 Broadmeadow Special School is an academy and became part of the Central Learning Partnership Trust (CLPT) in 2016. In order to supplement existing provision at the school the Trust have entered into an agreement with the Local Authority to lease the ground floor of the Whitmore Reans Strengthening Families Hub, which is adjacent to Broadmeadow Special School.
- 2.9 Despite this additional accommodation the current school building and the Hub does not meet the required levels of accommodation for 75 pupils.

3.0 Broadmeadow Special School

- 3.1 Broadmeadow Special School caters for 75 children in the age range 3 to 11 years who have been identified as having a need of special educational provision. The school caters for children with Autistic Spectrum Disorder (ASD), Severe Learning Difficulty (SLD) and Physical Disabilities (PD).
- 3.2 The school is based in Park Ward and was judged 'Good' by Ofsted when inspected in October 2019.
- 3.3 In 2020/2021 the school extended its age range from 3 -7 to 3 -11 years. In order to facilitate the age range change the school leased the ground floor of the neighbouring Whitmore Reans Strengthening Families hub for two years (expires November 2023). However, there is still a shortfall of space that needs to be addressed.
- 3.4 CLPT commissioned a feasibility assessment to develop and cost options of installing modular accommodation on the current site of Broadmeadow Special School.
- 3.5 This is intended to be a temporary solution whilst proposals are explored to increase capacity further (above 75 pupils) to meet demand.
- 3.6 Discussions have taken place between the Local Authority, Trust, Architect and the school to determine the scope of works and ensure value for money. Discussions have also taken place with West Park Primary School (adjacent to Broadmeadow Special School) as it is likely that part of their school land may be impacted upon by this scheme.
- 3.7 In order to increase the capacity of the school to accommodate the 75 commissioned places, the preferred option is to have two new modular buildings.

3.8 In order to provide the school with sufficient accommodation to cater for the increased commissioned places (increased from 54 to 75) it is recommended that the Local Authority fund the scheme. Following any proposed relocation to meet further demand, the modular buildings would transfer to the ownership of the Local Authority.

4.0 Delivery of additional accommodation

4.1 After discussion and feasibility evaluation, the preferred option to provide the required accommodation for Broadmeadow Special School is as follows:

- Site one of the modular buildings on the existing car park of Broadmeadow Special School
- The second modular building would be sited on the grounds of West Park Primary School in the corner of the field in an area not heavily utilised by the school for outdoor space
- To balance the loss of car parking spaces at Broadmeadow Special School, additional car parking places would be created adjacent to the modular building on West Park Primary School, again in the area not heavily utilised for outdoor space
- Fencing would be erected to enclose the modular building and car park spaces and entry and exit would be via an existing access gate from the Strengthening Families Hub
- Both modular buildings will transfer to the ownership of the Local Authority once they are no longer required by Broadmeadow Special School if the school were to relocate.

4.2 The Headteacher and Governors of West Park Primary School have worked with the Local Authority and architect so they are comfortable with the position of the modular building on the school site. Due to the method of construction, it is envisaged that there will be minimal disruption to West Park Primary School as the majority of the accommodation is being assembled off site.

4.3 The estimated cost of Phase 1 of the scheme is £800,000. As Figure 1 illustrates, this is slightly above the national average cost per place. It should be noted that the national average cost per place is based on the National School Delivery Cost Benchmarking exercise (July 2022) and that regional cost differences can be considerably more or less than the national average stated.

Figure 1:

Overall number of places	Estimated Cost £	Cost Per Place £	National Average Cost Per Place (Temporary)
21	800,000	38,095	37,460

4.4 The location of the modular buildings at Broadmeadow Special School and West Park Primary School may require consent under Section 77 School Standards and Framework Act 1998 (SSFA) due to the 'disposal' of the playing field land. Playing Field land includes hard informal and social areas. Advice will be sought to determine if consent from the Secretary of State is required for this proposal.

5.0 Evaluation of alternative options

5.1 The school requires the additional accommodation to ensure that a sufficient teaching and learning environment is available and there are limited options due to the size of the school site.

5.2 Several options for Phase 1 have been considered regarding the layout of the modular buildings on the school site which have been discounted due to not being suitable or not providing value for money.

6.0 Reasons for decision(s)

6.1 This scheme would secure the required accommodation for the number of commissioned places.

7.0 Financial implications

7.1 The feasibility assessment for Phase 1 of the scheme for the installation of modular build is estimated at £800,000. The current capital programme approved on 16 November 2022 by Cabinet includes a £9.8 million budget for High Needs Capital Programme - Future Schemes which is fully funded by the High Needs Provision capital allocation grant 2021-2024. This report seeks approval for delegation so that once the budget requirement is known more accurately, a virement can be actioned moving budget from the High Needs Capital Programme – Future Schemes budget to a specific budget for this project.

7.2 The work will be contracted by the Academy Trust and this will be funded by the Council via a legal agreement to be drawn up by legal services. The modular buildings will remain an asset of the Academy until such time as Phase 2 detailed above is implemented and the school moves to a new site. At such time the modular buildings would return to Council's control.

[JB/29112022/Z]

8.0 Legal implications

8.1 Under Section 14 of the Education Act 1996, a local authority shall secure that sufficient schools for providing primary and secondary education are available in their area. Sufficient means sufficient in number, character, and equipment to provide for all pupils the opportunity of appropriate education. In meeting this duty, a local authority must do so with a view to securing diversity in the provision of schools and increasing opportunities for parental choice.

- 8.2 When proposing significant changes, academies must follow guidelines as detailed within the 'Making significant changes to an open academy'. Departmental guidance for all types of academy trust' (Department for Education January 2022).
- 8.3 Any grants connected with the proposed scheme as detailed in the report will need to be authorised in accordance with the Council's Constitution and the relevant legislation.
- 8.4 That all necessary legal agreements are entered into in order to protect the Council's interest.
- 8.5 The Council to ensure that the appropriate procedure is in place should the recipient organisation misuse the grant or fail to comply with the terms and conditions of the grant agreement.
- 8.6 In relation to the extending of the tenancy of the Whitmore Reans Lease, this will be carried out in accordance with standard conveyancing practice and the Council's constitution. Entering into leases is permitted at paragraph 28 of the Contracts and Procedure Rules, which forms part of Part 4 of the Constitution.
- 8.7 Where the Council has land ownership responsibilities, investigations will need to be undertaken to ensure compliance with existing agreements and in relation to any covenants on the legal title to the land.
- 8.8 If required Section 77 School Standards and Framework Act 1998 will need to be adhered to in regards to Broadmeadow Special School and West Park Primary School. [AS/28112022/A]

9.0 Equalities implications

- 9.1 This report has equal opportunity implications as the contents have direct reference to educational provision for children and young people in the City. Section 149 of the Equality Act 2010 requires that public bodies, in exercising their functions, have due regard to the need to (1) eliminate discrimination, harassment, victimisation and other unlawful conduct under the Act, (2) advance equality of opportunity and (3) foster good relations between persons who share a protected characteristic and persons who do not share it.
- 9.2 The number of commissioned places at Broadmeadow Special School has increased from 54 to 75 providing additional school places in the city for children with ASD, SLD and PD. The accommodation that will be provided as part of Phase 1 will help to ensure delivery of education and to meet the needs of young people.
- 9.3 The increase in places at Broadmeadow Special School helps cater for the growth in EHCP's and for young people with ASD, SLD and PD that need to attend specialist provision, aligning with the Wolverhampton SEND Joint Commissioning Strategy 2022-25 for children to achieve their full potential.

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