

Birmingham City Council

Report to Cabinet

29th June 2021



Subject: **BIRMINGHAM DEVELOPMENT PLAN REVIEW AND REVISED LOCAL DEVELOPMENT SCHEME**

Report of: **IAN MACLEOD, ACTING DIRECTOR, INCLUSIVE GROWTH**

Relevant Cabinet Member: **Councillor Ian Ward, Leader of the Council**

Relevant O &S Chair: **Councillor Shabrana Hussain, Economy and Skills**
Councillor Liz Clements, Sustainability and Transport

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 008610/2021		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential:		

1 Executive Summary

- 1.1 In line with legislative requirements, a review of the Local Plan, including the Birmingham Development Plan (BDP) has been undertaken to assess if an update of the plan is required. The review indicates that the BDP requires updating due to numerous significant changes to national planning policy and legislation, as well as changes in local circumstances and priorities.

2 Recommendations

- 2.1 Endorses the findings and recommendations of the Birmingham Development Plan Review Assessment, as set out in Appendix 1.
- 2.2 Approves the commencement of work on a new Local Plan to replace the Birmingham Development Plan and supersede the Longbridge Area Action Plan and Aston, Newtown and Lozells Area Action Plan.
- 2.3 Approves the establishment of the Local Plan Member Working Group with the Terms of Reference as attached at Appendix 5.
- 2.4 Approves the updated Local Development Scheme (LDS), as set out in Appendix 2.

3 Background

Local Plan Review

- 3.1 The Birmingham Development Plan (BDP) was adopted on 10 January 2017 and provides a spatial vision and development strategy for the city over the plan period 2011-2031. The BDP contains strategic policies and site allocations which are used to shape development and determine planning applications. The BDP forms a key part of Birmingham's Local Plan; a collection of documents that sets the planning framework for the city. The Longbridge Area Action Plan was adopted in April 2009 and the Aston, Newtown and Lozells Area Action Plan was adopted in 2012.
- 3.2 Local planning authorities are required by legislation to review Local Plan documents at least every five years from the date of adoption in order to ascertain if their policies need updating.
- 3.3 In line with government guidance, a review of the Development Plan Documents which make up Birmingham's Local Plan has been undertaken which has considered:
 - conformity with national planning policy;
 - changes to local circumstances; such as a change in Local Housing Need;
 - Housing Delivery Test performance;
 - whether the authority can demonstrate a 5-year supply of deliverable sites for housing;
 - whether issues have arisen that may impact on the deliverability of key site allocations;
 - planning appeals performance;
 - success of policies against indicators in the Development Plan as set out in their Authority Monitoring Report;
 - plan-making activity by other authorities;
 - significant economic changes that may impact on viability; and

- social, environmental or economic priorities may have arisen.
- 3.4 Once a plan has been reviewed there are three potential outcomes.
- a) It is decided that no changes are required to the plan and the Council publishes a statement to that effect setting out the reasons for the decision; or
 - b) It is decided that some changes are required, and work commences on a partial update to the plan; or
 - c) It is decided that more substantial changes are required, and work commences on a new plan/full update.
- 3.5 Taking into account the factors listed above and using the Planning Advisory Service's Local Plan Route Mapper and Toolkit, the findings of the review are attached at Appendix 1. The outcome of the review, of those set out in paragraph 3.4, is option c).
- 3.6 There have been a number of changes to national planning policy and guidance since the plans were adopted, relating to a variety of issues such as affordable housing, climate change mitigation and biodiversity enhancement, as well as the introduction of a standard method to calculate local housing need and the Housing Delivery Test.
- 3.7 Birmingham has been performing well against the government's Housing Delivery Test, which is a measurement of new housing completions against an authority's local plan housing requirement. Birmingham has exceeded its housing target each year for the past 3 years. However, affordable housing completions have fallen short of the target by 46%. There is an opportunity for the new Plan to re-assess the policy approach and develop a strategy to help meet the identified need.
- 3.8 A standard method for calculating housing need was introduced in 2017 and revised in December 2020. The new standard method places a 35% uplift on the housing number of the top 20 largest English cities, increasing Birmingham's housing numbers considerably when compared to the BDP housing requirement. In accordance with paragraph 73 of the NPPF, the BDP figure remains as the city's housing requirement until the BDP is 5 years old in January 2022, after which point the local housing need calculated using the standard method will be used to determine the housing requirement. It is therefore of critical importance that work on updating the BDP (preparing a new plan) commences so that the housing number generated by the new standard method can be properly considered and planned for.
- 3.9 The City Council declared a climate emergency in June 2019 and has committed to achieving carbon neutral status by 2030 or as soon thereafter as a 'just transition' allows. A Route to Zero Task Force (which will become a climate Assembly from June 2021) was established and an Action Plan

was approved by Full Council in January 2020, setting out a series of initiatives, projects and policy changes aimed at achieving a zero-carbon city. Recognising the continuing challenges of climate change and the importance of reducing carbon emissions, the new Plan will play an important role in supporting the move towards net zero carbon.

- 3.10 The Environment Bill, to be introduced later this year, will require developers to secure biodiversity net gain for all new developments and Councils to prepare local nature recovery strategies. The latter are expected to inform and support plan-making and ensure that development proposals meet biodiversity priorities.
- 3.11 The long-term consequences of the Covid-19 pandemic are still unclear, but it is most likely that the deliverability of the retail and office floorspace targets set out in the BDP will be affected, if not only by accelerating the changes that were already taking place to working and shopping practices before the pandemic. Recovery could take a number of years and therefore challenge the delivery of the existing BDP. As well as this, recent changes to the Use Classes Order and the extension of permitted development rights has undermined existing BDP policies in relation to urban centres and the protection of (formerly B1 uses) industrial uses. The approach to the city centre, other centres, employment land and key growth areas will need to be re-evaluated and updated as a result.
- 3.12 The Big City Plan will be replaced by 'Our Future City Plan' (OFCP) and this will undoubtedly require the spatial strategy of the BDP, in particular GA1 City Centre Growth Area, to be re-evaluated. OFCP was launched in January 2021 and proposes a radical new approach for future development in the city centre using the climate emergency as impetus, setting a new direction towards a green, zero-carbon and people-focussed approach to development as well as repurposing parts of the city centre.
- 3.13 In terms of the plan-making activities of other authorities, the Black Country (Dudley, Sandwell, Walsall, and Wolverhampton) has evidenced a significant shortfall through its 2019 Urban Capacity Review Update of up to 29,260 dwellings between 2019 and 2038, against its local housing need and has made formal request to confirm if our existing or emerging Local Plan is seeking to deliver levels of housing and / or employment land in excess of local needs on non-green belt land and, if so, whether any sites could reasonably be attributed to meeting part of the housing or employment land needs of the Black Country up to 2039.
- 3.14 The BDP designates the Area Action Plans (AAPs) as 'key growth areas' and defers to the AAPs for policy detail. As it is recommended that the BDP is updated in full, which will require the spatial strategy to be redrawn, the AAPs will be superseded by the new local plan. Both pre-date the 2012 NPPF and encompassing them into the BDP update would be consistent

with the Government's emerging move towards a single local plan for a local planning authority.

- 3.15 The City Council will continue to support and promote neighbourhood planning; providing assistance and advice where community groups wish to develop a neighbourhood plan to shape the development and growth of their local area.
- 3.16 Given the scale of changes to national policy and legislation and changes in local circumstances as set out above, it is recommended that a new Local Plan is prepared to replace the BDP. Government consulted on its Planning for the Future White Paper in August 2020, which set out radical proposals for the reform of the planning system. Government has yet to publish its response to the consultation, but they have indicated that a new Bill will be brought forward in November 2021 to pave the way for future changes. The preparation of the new Local Plan will therefore need to be flexible to respond to any potential future changes to the planning system including impact on the Local Development Scheme (LDS) timetable.
- 3.17 The City Council's constitution provides for the establishment of member Working Groups to develop recommendations or investigate issues of interest or concern. It is proposed that a Local Plan Member Working Group is established to enable discussion, guidance and support in the development of the new Local Plan. It will aid greater understanding of the key issues which the Local Plan must consider and the reasonable options that exist to address those issues. Draft Terms of Reference are set out at Appendix 5.

Local Development Scheme

- 3.18 Local planning authorities are required through the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011) to produce a Local Development Scheme (LDS). This is a rolling three-year project plan setting out the Development Plan Documents (DPDs) that will be produced by the Council and the timetable for their preparation.
- 3.19 An up to date LDS is a fundamental element of the Local Plan process. DPDs must be prepared in accordance with the LDS and this must be demonstrated at public examinations. The LDS will be used by officers, consultees, developers, agents and the public and enables everyone to know when key stages of consultation can be expected. It is therefore important that it is kept up to date to reflect the progress made and keep residents and other stakeholders informed. Implementation of the LDS is monitored through the Authority Monitoring Report (AMR) and the LDS is regularly reviewed and updated when necessary.
- 3.20 The draft updated LDS, which will supersede the Council's existing LDS approved by Cabinet on 17 December 2019, proposes a timetable for the production of a new Local Plan to replace the BDP. The LDS has been

prepared having regard to current circumstances but will kept under review. Future circumstances that might lead to the need for updating the LDS again include:

- New government policy and guidance on plan-making (for example implementation of proposals announced in the Planning for the Future White Paper).
- Changing timeframes for work not fully within the Council's control (for example, the timing of the public examination and receipt of the Inspector's report).
- Other unanticipated changes.

4 Options Considered and Recommended Proposal

- 4.1 **Option 1- Do Nothing:** This would mean not publishing the review document and not commencing work on a new Local Plan. Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) requires local planning authorities to review their local plans at least once every 5 years from their adoption date to ensure that policies remain relevant and effectively address the needs of the local community. By doing nothing, the Council will not be complying with this legislative requirement. In terms of the LDS, doing nothing would mean not updating the LDS. The Council has a statutory duty to maintain and update an LDS. Not to approve the LDS could undermine public and stakeholder confidence about the Council's plan-making programme.
- 4.2 **Option 2: To reconsider the content of the review document and not commence work on a new Local Plan or only undertake a partial update of the BDP.** It is clear from the review of the BDP and national policy that the BDP requires updating due to a range of significant changes in national planning policy and local circumstances as detailed in the review document attached as Appendix 1. Where Local Plan policies are out of date, this would harm the Council's ability to deliver on its strategic objectives. It would mean the Council may be susceptible to decisions being challenged by planning appeals and reduce the ability to provide certainty for residents, developers and investors. The process for undertaking a partial and full update/new plan are the same. Both would require evidence gathering, consultation and examination in public. Given the scale of the changes, it is recommended that a new plan is prepared rather than a partial update. In terms of the LDS, the other option would be to reconsider the timetable proposed for the new Local Plan. The LDS has been prepared by officers and is considered appropriate for the present and foreseeable circumstances.
- 4.3 **Option 3: To publish the review document to ensure compliance with the relevant regulations and commence work on a new Local Plan to replace the BDP.** To update the LDS to ensure that a timetable for

production of the new Local Plan is included and to ensure that the Council has met its statutory duty in maintaining an up to date LDS. This is the recommended option.

5 Consultation

- 5.1 Duty to co-operate bodies have been consulted during the process of the review and views have been sought from them to assess if the BDP needs updating and the scope of the update.
- 5.2 There is no requirement to consult on the LDS, however the Council is required to make it publicly available and keep it up to date.

6 Risk Management

- 6.1 Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) requires local planning authorities to review their local plans at least once every 5 years from their adoption date. This means that the Council must complete a review of the BDP by 10 January 2022. Where relevant Local Plan policies are out of date, the presumption in favour of sustainable development will apply and the Council's ability to deliver on its strategic objectives would be harmed. It would mean the Council may be susceptible to decisions being challenged by planning appeals and reduce the ability to provide certainty for residents, developers and investors.
- 6.2 The risk of not maintaining an up to date LDS is the loss of public and stakeholder confidence about the Council's plan-making programme.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

- 7.1.1 The recommended decisions are consistent with the Council Plan 2018-2022 (as updated in 2019) and in particular the outcome; Birmingham is an Entrepreneurial City to learn, work and invest in by providing up to date policies for the future planning and development of the city.
- 7.1.2 As outlined in paragraph 3.9 above, the new Plan will also play an important role in supporting the Council's declaration of a Climate Emergency in July 2019 and is significant in helping to deliver the Climate Change Action Plan.

7.2 Legal Implications

- 7.2.1 Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) requires local planning authorities to review their local plans at least once

every 5 years from their adoption date. The review of the BDP has been undertaken in accordance with these Regulations.

- 7.2.2 Local planning authorities are required through the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011) to produce a Local Development Scheme (LDS).

7.3 Financial Implications

- 7.3.1 The process of evidence gathering and producing a new Local Plan requires officer time and resources as well as external resources to provide expert advice. Based on the number consultation stages and the amount of evidence commissioned for the preparation and adoption of the existing Birmingham Development Plan, it is estimated that the cost of the preparation of the new Local Plan will be approximately £855,000. This includes legal fees, programme officer costs and the cost of the government appointed Planning Inspector and will be met from existing approved Inclusive Growth Directorate revenue budgets spread over 4 financial years from 2021/22 – 2024/25 with £320,000 in 2021/22; £195,000 in 2022/23; £220,000 in 2023/24; and £120,000 in 2024/25.
- 7.3.2 Any future City Council programmes/projects and any associated funding bids resulting from a new Local Plan will be progressed in accordance with the Council's Gateway and related Financial Approval Framework, which will include the identification of financial implications (both capital and revenue) and associated resources.

7.4 Procurement Implications (if required)

- 7.4.1 The procurement of technical evidence base studies will be the subject of separate delegated reports.

7.5 Human Resources Implications (if required)

- 7.5.1 No implications.

7.6 Public Sector Equality Duty

- 7.6.1 There are not direct equalities implications resulting from the proposals set out in this report. Any new Local Plan would be accompanied by an Equality Assessment at each relevant stage that would ensure compliance with the Equality Act 2010 and the Council's own policies on diversity and equality.

8 Appendices

Appendix 1 – Local Plan Review Assessment

Appendix 2 – Local Development Scheme (2021-2024)

Appendix 3 – Equalities Assessment

Appendix 4 – Risk Assessment

Appendix 5 – Local Plan Member Working Group Terms of Reference

9 Background Documents

Adopted Birmingham Development Plan (2017)

Longbridge Area Action Plan (2009)

Aston, Newtown and Lozells Area Action Plan (2012)