

Birmingham City Council

City Council

14th July 2020



Subject: Submission of the 'Development Management In Birmingham' Development Plan Document

Report of: Councillor Ian Ward, Leader of the Council

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Does the report contain confidential or exempt information? ☐ Yes ☒ No

If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential :

1 Executive Summary

- 1.1 To seek approval to submit the 'Development Management in Birmingham' Development Plan Document (DMB) to the Ministry of Housing, Communities and Local Government (MHCLG) for examination under the provisions of Regulation 22 of The Town and Country Planning (Local Planning) (England) Regulations 2012 following recent Cabinet approval.
- 1.2 To report on the outcome of the consultation on the DMB (Publication version) undertaken between 9 January – 21 February 2020 and to seek approval of the attached 'Council Responses' to the representations which were also recently approved by Cabinet at its meeting on 23rd June 2020.

2 Recommendations

- 2.1 Notes the summary of representations received on the Publication DMB document and approves the 'Council responses' to the representations (Appendix 3) and the Schedule of Proposed Minor Changes to the Publication DMB document (Appendix 4).
- 2.2 Approves the submission of the Publication DMB document (Appendix 1), Sustainability Appraisal (Appendix 2), representations and Council response (Appendix 3), Schedule of Proposed Minor Changes (Appendix 4) and other supporting documents to the MHCLG under the provisions of Regulation 22 of The Town and Country Planning (Local Planning) (England) Regulations 2012 as soon

as practicable, following recent approval by Cabinet at its meeting on 23rd June 2020.

3 Background

3.1 The DMB, when adopted, will support the adopted Birmingham Development Plan (2017) (BDP) by setting out non-strategic planning policies for the determination of planning applications. It will replace the existing policies of the Birmingham Unitary Development Plan (2005) (UDP) and be one of the Council's key planning policy documents alongside the BDP.

3.2 The DMB document has been subject to three public consultation events.

Stage 1 – Development Management DPD Consultation (Regulation 18) (June 2015) Consultation period 7 September - 19 October 2015 (6 weeks)

Stage 2 - Preferred Options Document Consultation (Regulation 18) (January 2019) Consultation period 4 February and 29 March 2019 (8 weeks)

Stage 3 – Publication DMB Document (Regulation 19) (October 2019) Consultation period 9 January – 21 February 2020 (6 weeks)

3.3 At this stage of the process, the Council cannot make further changes to the DMB document. Therefore, all representations submitted at Stage 3 (Publication) which are set out in Appendix 3 to this report, will be submitted alongside the DMB Publication document to MHCLG for examination by the Planning Inspectorate (PINS).

3.4 At each stage of the process, the comments received have been reported to Cabinet and taken into account in subsequent versions of the DMB. This has culminated in the final submission of documents to MHCLG outlined in paragraph 3.3 being approved by Cabinet at its recent meeting on 23rd June 2020 and recommended to be subsequently presented for approval to the City Council.

Summary of representations

3.5 The Publication DMB document was published and consulted on between 9th January and 21st February 2020. During this time a total of 31 respondents made representations generating 110 individual comments on the policies in the Publication DMB document. The responses received have been analysed and summarised and a proposed 'Council Response' is set out against each comment (Appendix 3). This is also included within the Consultation Statement (Appendix 5). The Consultation Statement details the engagement that was carried out throughout the process, the main issues raised at each stage and the Council's response to the comments.

3.6 A full breakdown of all 110 representations are contained in Appendix 3. For each representation the following details are provided:

- References to the specific part of the DMB document to which the representation relates;

- Why that part of the DMB document is not considered to be legally compliant or sound;
- What changes the representor considers are necessary;
- Additional comments of relevance from the representor; and
- The proposed Council response.

3.7 Overall there was general support for all the policy topics covered in the DMB but there were detailed comments and issues raised on the content and wording of the policies. Many of the points are anticipated to be resolved through the proposed minor changes to the DMB (Appendix 4), but there remain a number of 'outstanding' issues which will need to be considered at the examination. Summary of the comments:

- Policy DM1 'Air quality' – respondents agree with the purpose and approach of the policy. However, a clearer definition of 'unacceptable deterioration' was considered to be required.
- Policy DM2 'Amenity' – respondents generally support the aspiration of the policy, but some consider that greater flexibility is necessary. Clarity was requested in relation to standards linked with the emerging Birmingham Design Guide and some of the terminology used in the policy.
- Policy DM3 'Land affected by contamination, instability and hazardous substances' – the policy is generally supported. One respondent suggests additional text is inserted to take account of abnormal development costs associated with remediation and its impact on viability.
- Policy DM4 'Landscaping and Trees' – respondents are of the view that the policy should provide greater flexibility, not exceed the requirements of the National Planning Policy Framework (NPPF) and take account of the overall viability of development. Further evidence should be provided to justify the use of the Capital Asset Value for Amenity Trees (CAVAT).
- Policy DM6 'Noise and vibration' – minor comments on the clarification of wording.
- Policy DM10 'Standards for residential development' – the evidence on need and viability to justify adopting the Nationally Described Space Standards or the stipulation of providing 30% of homes to be accessible and adaptable in line with Building Regulation Part M4 (2) is deemed to be insufficient. If implemented, some respondents suggest a need for transitional arrangements to be put in place.
- Policy DM15 'Parking and servicing' – some respondents felt that the policy confers undue statutory weight to the Parking Supplementary Planning Document (SPD) and that it should be part of the policy rather than guidance.

3.8 The responses received have been reviewed and where it is considered appropriate, minor modifications have been made to the policies (Appendix 4). The

'outstanding' issues will be discussed at the Examination in Public and recommendations will then be made on the final version of the document by the Planning Inspectorate after hearing all of the points raised from the Council and respondents.

Next Steps

- 3.9 Following approval, the DMB document and all supporting documents and evidence will be submitted to the MHCLG and a date for the Examination in Public will be set by the Planning Inspectorate. Once complete, the Planning Inspectorate will determine whether the document is legally 'sound' and make recommendations on the wording of the final version of the document. Approval to adopt the document will then be sought from Cabinet and Full Council and it will then become part of Birmingham's Local Plan and be used in the determination of planning applications and development decisions.
- 3.10 The DMB document is accompanied by a Sustainability Appraisal (SA) (Appendix 2) which assesses the policies within the DMB to ensure they have a positive impact on social, economic and environmental factors. An updated Equality Impact Analysis has also been carried out and is attached as Appendix 6.

4 Appendices

Appendix 1 - Publication Development Management in Birmingham Document (DMB) (Regulation 19)

Appendix 2 – Sustainability Appraisal (SA) of the Publication Development Management in Birmingham Document

Appendix 2a – Sustainability Appraisal Addendum

Appendix 3 – Publication (Regulation 19) Representations and Council Response

Appendix 4 – Schedule of proposed minor changes

Appendix 5 - Consultation Statement

Appendix 5a – Consultation Statement Appendices

Appendix 6 – Equalities Analysis

5 Background Documents

Cabinet Report 27th July 2015 - Public Consultation on the Development Management Development Plan Document (Issues and Options)

Cabinet Report 22nd January 2019 - Public Consultation on the 'Development Management in Birmingham' Development Plan Document. (Preferred Options).

Cabinet Report 29th October 2019 - Public consultation on the Publication version of the 'Development Management in Birmingham' Development Plan Document

Cabinet Report 23rd June 2020 - Submission of the 'Development Management in Birmingham' Development Plan Document