

Birmingham City Council

Report to Cabinet

16th March 2021



Subject: **CONSULTATION ON MAIN MODIFICATIONS TO THE
'DEVELOPMENT MANAGEMENT IN BIRMINGHAM'
DEVELOPMENT PLAN DOCUMENT**

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

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

Relevant O &S Chair: **Councillor Lou Robson, 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: 008305/2021		
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 To seek authority to approve and carry out public consultation of the proposed Main Modifications to the 'Development Management in Birmingham' Development Plan Document (DMB) following examination hearings by the Planning Inspectorate carried out under the provisions of Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

2 Recommendations

- 2.1 Approves the proposed main modifications to the 'Development Management in Birmingham' Development Plan Document (DMB) set out in Appendix 1, for consultation for a period of 6 weeks.
- 2.2 Notes that, following consultation and endorsement by the Planning Inspectorate, the final DMB document will be brought back to Cabinet and City Council for approval to be adopted as part of the Local Plan.
- 2.3 Authorises the City Solicitor (or their delegate) to negotiate, execute and complete all relevant documentation to give effect to the above recommendations.

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.

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)

- 3.2 At each stage of the process, the comments received have been reported to Cabinet and taken into account in subsequent versions of the DMB. All representations at Stage 3 (Publication) were then duly published and submitted in July 2020, alongside the Publication DMB document, to the Ministry for Housing, Communities and Local Government (MHCLG) for examination by the Planning Inspectorate (PINS).

The Examination in Public

- 3.3 Kelly Ford was appointed by PINS as the Inspector to carry out the Examination in Public into the DMB. As part of the Examination, public hearings were scheduled which took place between the 10th and 12th November 2020. The Hearings were carried out entirely online due to Covid-19 restrictions and were attended by council officers as well as those wishing to attend who had made representations when the DMB Publication document was published (Stage 3 above).
- 3.4 The hearings enabled discussion on the DMB, to establish whether it had been positively prepared and was legally sound. During the process, possible modifications to the DMB were put forward by all parties including the Inspector herself to ensure that the document met all of the requirements of the Planning and

Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012.

- 3.5 At the end of the Hearings, the Inspector agreed a set of modification proposals with council officers which were deemed to be required to make the document sound and compliant and to enable it to be subsequently approved for adoption by Cabinet. These proposals are therefore set out in the Table of Main Modifications as Appendix 1 of this report. These modifications and the reasons for them are now being duly published.
- 3.6 The Inspector also advised that a further round of consultation of the Main Modifications should be carried out by the City Council to ensure all procedures set out in the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012 were met. The consultation will only be on the Modifications themselves and will not allow representations on any other aspects of the DMB which are not subject to modification.

Main Modifications

- 3.7 There are 12 modifications proposed to the document (MM1 - MM12) which are attached as Appendix 1. Additional text to the policies and/or the supporting text has been recommended to clarify and assist in the application of the policies. The thrust of the policies themselves remain the same.
- 3.8 Modifications to the monitoring framework in the DMB are also proposed to provide more effective indicators for measuring the outcomes of the policies.

4 Options Considered and Recommended Proposal

- 4.1 **Option 1- Do Nothing:** Do not consult on the proposed Main Modifications to the DMB. This would prevent the DMB from being adopted and delay having up to date development management policies in place to help determine planning applications.
- 4.2 **Option 2 – Seek Approval to Consult on the Proposed Main Modifications to the DMB:** Based on the evidence heard during the Examination hearings, it is considered that the approach to consult on the proposed main modifications (Appendix 1 of the report) is the most appropriate way forward. This is necessary to enable the City Council to adopt the DMB and ensure up to date development management policies are in place to help determine planning applications. The recommended proposal is to proceed with the consultation of the proposed main modifications.

5 Consultation

- 5.1 Subject to Cabinet approval, the Main Modifications will be subject to public consultation for a period of 6 weeks. The DMB document itself has been subject to public consultation on three previous occasions which are detailed in paragraph 3.1 above. This consultation, like all previous consultations, will be carried out in accordance with the Council's adopted Statement of Community Involvement, under the provisions of the Planning and Compulsory Purchase Act 2004, and the revised

procedures required by the Town and Country Planning (Local Planning) (England) Regulations 2012.

6 Risk Management

- 6.1 The main risk associated with failure to consult on the Main Modifications to the DMB document is the absence of up to date policies to guide development management decisions. The programme for completion and adoption of the DMB allows flexibility to account for any potential issues. This additional consultation on the Main Modifications is one such issue where flexibility in the timetable and process has enabled it to be carried out without undue risk.
- 6.2 Other risks are addressed elsewhere in this report, including Section 4 Options Appraisal, and section 7.3 on the financial implications.

7 Compliance Issues:

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

- 7.1.1 The DMB is 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 against which planning applications for development will be assessed.

7.2 Legal Implications

- 7.2.1 The preparation of the DMB is being carried out in accordance with the Planning and Compulsory Purchase Act 2004 and its submission is prescribed under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012. Once adopted, it will replace the content of Chapter 8 of the Birmingham UDP 2005.

7.3 Financial Implications

- 7.3.1 Preparation of the DMB and associated evidence, as well as the Examination in Public have been carried out using existing Inclusive Growth Directorate (Planning and Development) staff resources and specialist external consultants to prepare specific evidence in support of the DMB. The cost of preparing the documents is funded from existing approved Inclusive Growth revenue budgets. There are no additional financial implications to the City Council from the production and adoption of the DMB.

7.4 Procurement Implications (if required)

- 7.4.1 No implications.

7.5 Human Resources Implications (if required)

- 7.5.1 No implications

7.6 Public Sector Equality Duty

7.6.1 The DMB is being prepared in line with Section 149 of the Equality Act 2010 in ensuring that public bodies, in the exercise of their functions, have due regard to and consider the needs of all individuals in shaping policy. Preparation of the DMB document includes the carrying out of an integrated Sustainability Appraisal at each formal stage which ensures positive social, economic and environmental impacts. An Equality Analysis (EA) has also been carried out during each stage including the submission of the document in July 2020 which is attached as Appendix 3. The EA will be updated once the DMB has been finalised following consultation and brought back for approval to be adopted as part of the Local Plan.

8 Appendices

- 8.1 Appendix 1 - Table of Main Modifications for consultation
- 8.2 Appendix 2 – Publication version of ‘Development Management in Birmingham’ Development Plan Document
- 8.2 Appendix 3 – Equalities Analysis

9 Background Documents

- 9.1 Cabinet Report 27th July 2015 - Public Consultation on the Development Management Development Plan Document (Issues and Options)
- 9.2 Cabinet Report 22nd January 2019 - Public Consultation on the ‘Development Management in Birmingham’ Development Plan Document. (Preferred Options).
- 9.3 Cabinet Report 29th October 2019 - Public consultation on the Publication version of the ‘Development Management in Birmingham’ Development Plan Document
- 9.4 Cabinet Report 23rd June 2020 – Submission of the ‘Development Management in Birmingham’ Development Plan Document
- 9.5 City Council Report 14th July 2020 - Submission of the ‘Development Management In Birmingham’ Development Plan Document