

Birmingham City Council

Report to Cabinet

23rd June 2020



Subject: SUBMISSION OF THE 'DEVELOPMENT MANAGEMENT IN BIRMINGHAM' DEVELOPMENT PLAN DOCUMENT

Report of: INTERIM 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: 007654/2020		
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 for the submission of the 'Development Management in Birmingham' Development Plan Document (DMB) to the Ministry of Housing, Communities and Local Government (MHCLG) for examination, following approval from City Council at its meeting on 14 July 2020 under the provisions of Regulation 22 of The Town and Country Planning (Local Planning) (England) Regulations 2012.

- 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.

2 Recommendations

- 2.1 Notes the summary of representations received on the Publication DMB document (Appendix 3).
- 2.2 Approves the 'Council responses' to the representations (Appendix 3) and the Schedule of Proposed Minor Changes (Appendix 4).
- 2.3 Approves the Publication DMB document (Appendix 1), accompanying Sustainability Appraisal (Appendix 2) the proposed 'Council Responses' (Appendix 3) and proposed minor changes to the DMB document (Appendix 4) to proceed to City Council for approval at its meeting on 14 July 2020 prior to its submission to the MHCLG under the provisions of Regulation 22 of The Town and Country Planning (Local Planning) (England) Regulations 2012 as soon as practicable.

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.
- 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 Publication DMB document to MHCLG for examination by the Planning Inspectorate (PINS).

Summary of representations

- 3.4 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.

3.5 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.

3.6 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. The key issues are:

- Policy DM1 'Air quality' – respondents agree with the purpose and approach of the policy. However, a clearer definition of 'unacceptable deterioration' is considered to be required.
- Policy DM2 'Amenity' – respondents support the aspiration of the policy, but some consider that greater flexibility is necessary. Clarity is also requested in relation to standards linked with the emerging Birmingham Design Guide and some of the terms used in the policy such as 'aspect and outlook.'
- 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.

3.7 The responses received have been reviewed and where it is considered appropriate, minor modifications have been made to the policies. The 'Council Responses' are set out in Appendix 3 of this report for Cabinet approval to proceed to City Council. 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.

3.8 Following City Council approval in July 2020, 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 be used in the determination of planning applications and development decisions.

3.9 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 5.

4 Options considered and Recommended Proposal

4.1 **Option 1- Do Nothing:** Do not submit the Publication DMB document to MHCLG for examination. This would delay having up to date development management policies in place to help determine planning applications.

4.2 **Option 2 – Seek Approval to Submit the Document to MHCLG:** Based on the evidence assembled, it is considered that the approach contained in the Publication DMB document is the most appropriate. Submission would ensure up to date development management policies were in place to help determine planning applications. The recommended proposal is to proceed with the submission of the document to the MHCLG following City Council approval in July 2020.

5 Consultation

5.1 The DMB document has been subject to public consultation on three separate occasions prior to this point which are detailed in paragraph 3.2 above. A

Consultation Statement has also been attached as Appendix 5 which sets out the comments and representations received at each stage of consultation and how this has shaped the document as a result. All consultations were 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.

- 5.2 Subject to approval by City Council on 14 July 2020, the DMB document and all relevant material will be submitted to the Ministry of Housing Communities and Local Government for examination as soon as practicable. The Planning Inspectorate will hold an Examination in Public which will give those who have made representations a further chance to put forward their views on the document. The Planning Inspectorate will then make their final recommendations which will allow the Council to adopt the document as part of Birmingham's Local Plan.

6 Risk Management

- 6.1 This main risk associated with delay 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 allows time for discussion with stakeholders and for issues to be addressed, as well as any delays in the scheduling of the Examination in Public.
- 6.2 Other risks are addressed elsewhere in this report, including Section 4 on the risks of not having the DMB, 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 The DMB and Sustainability Appraisal have been prepared 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. The cost of submission of the document and subsequent Examination in Public will be met from the Planning and Development approved 2020/21 revenue budget. There are no additional financial implications to the City Council from the production 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 (Appendix 2) at each formal stage which ensures positive social, economic and environmental impacts as well as an Equality Impact Analysis during each stage of its development and for the final submission (Appendix 6).

8 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

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