

# Birmingham City Council

## City Council

Date 7<sup>th</sup> December 2021



**Subject:** Adoption 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 note the Planning Inspector's report (Appendix 1) on the 'Development Management in Birmingham' Development Plan Document (DMB) and approve the adoption of the DMB as submitted and subsequently amended by the main modifications (Appendix 2) and additional (minor) modifications. (Appendix 3).
- 1.2 Upon adoption of the DMB, the remaining parts of the Birmingham Unitary Development Plan 2005 (Chapter 8) (Appendix 4) are to be superseded.
- 1.3 A report relating to the adoption of the DMB was approved by the Council's Cabinet at a meeting on 9 November 2021 (Appendix 11).

### 2 Recommendations

- 2.1 Notes the report of the Planning Inspector on the 'Development Management in Birmingham' Development Plan Document (DMB) (Appendix 1) and the Inspector's schedule of main modifications (Appendix 2).
- 2.2 Approves the adoption of the DMB incorporating the Inspector's main modifications and additional (minor) modifications in accordance with the provisions of Regulations 26 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 2.3 Notes the final version of the Strategic Environmental Assessment (SEA)/ Sustainability Appraisal and Habitats Regulation Assessment (HRA) (Appendix 7)

- 2.4 Notes the accompanying DMB Adoption Statement (Appendix 9) and Sustainability Appraisal Adoption Statement (Appendix 8).
- 2.5 Approves the revocation and withdrawal of the remaining parts of the Birmingham Unitary Development Plan 2005 (Chapter 8) (Appendix 4) and the withdrawal of relevant superseded Supplementary Planning Guidance referenced within it (Appendix 5).

### **3 Background**

- 3.1 The adoption of the DMB means that it will become part of Birmingham's Local Plan and it will support the adopted Birmingham Development Plan (2017) (BDP) by setting out non-strategic planning policies for the determination of planning applications. It will be one of the Council's key planning policy documents alongside the BDP and it replaces the remaining extant policies of the Birmingham Unitary Development Plan (2005) (UDP) which will be revoked.

- 3.2 The DMB document has been subject to four public consultation events which have all been previously approved by Cabinet.

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)

Stage 4 – Proposed Main Modifications to the DMB document following Examination Hearings (Regulation 22) (March 2021) Consultation period 24 March – 5 May 2021 (6 weeks)

- 3.3 Following Stage 3 (Publication), the DMB was published and submitted to the Ministry for Housing, Communities and Local Government (MHCLG) in July 2020 for examination by the Planning Inspectorate (PINS). A Planning Inspector (Kelly Ford) was appointed to carry out the Examination in Public of the DMB. As part of the Examination, public hearings took place between the 10th and 12th November 2020.
- 3.4 At the end of the hearings, the Inspector agreed a set of 12 main modifications with council officers which were deemed to be required to make the document sound and compliant. As set out in paragraph 3.2 above (Stage 4), these modifications were then approved by Cabinet and subject to consultation earlier this year. Primarily, the modifications added additional text to the policies and/or the supporting text to clarify and assist in the application of the policies. The thrust of the policies themselves remained the same.
- 3.5 Following consultation on the proposed main modifications, 16 individual representations were received and forwarded to the Planning Inspector for her consideration. The Inspector issued her final report on 30 September 2021 which

was published soon after receipt in line with Regulation 25 of the Town and Country (Local Planning) (England) Regulations 2012. The report is attached as Appendix 1 and is available on the Council's website. In addition, those who responded at the Regulation 19 consultation have been notified of the publication of the report in line with Regulation 35.

- 3.6 The report concludes that with the recommended main modifications (Appendix 2) being incorporated into the DMB, it satisfies the requirements of Section 20(5) of the Planning and Compulsory Purchase Act 2004 and meets the tests of 'soundness' as set out in the National Planning Policy Framework 2012. A summary of the key effects of the Inspector's main modifications are set out in paragraph 3.6 of the Cabinet Report of 9<sup>th</sup> November 2021 (Appendix 11).
- 3.7 Where the Inspector's report recommends that main modifications are needed, the Council must incorporate the recommended main modifications in order for the document to be deemed as 'sound'. The report is not binding on the Council, but the Council may not adopt an unsound plan.
- 3.8 Adoption of the DMB provides the city with a comprehensive Local Plan framework. The DMB will be given full weight in determining planning applications and appeals decisions.
- 3.9 During the preparation of the Local Plan Review the Council is required by law (Planning and Compulsory Purchase Act 2004 and Environmental Assessment of Plans and Programmes Regulations ["the SEA Regulations"]) to carry out a Sustainability Appraisal (SA) and a Strategic Environmental Assessment (SEA) of the plan as it developed. This legal requirement is an important element of testing the "soundness" of local plans that is required by National Planning Policy Framework 2012 paragraph 182.
- 3.10 Both the SA and SEA requirements were met through a single integrated process (referred to as SA), the method and findings of which were described in numerous SA reports published alongside the different versions of the DMB during its development. The final SA (October 2019) and SA Addendum (May 2020) are attached as Appendix 7. There are no implications on the SA of the main modifications. A SA Post Adoption Statement (Appendix 8) has been prepared ready for publication upon adoption of the DMB.
- 3.11 The adoption of the DMB means that the document will supersede what remains of the Birmingham Unitary Development Plan (UDP) (Chapter 8). The UDP was originally adopted in full in 2005 but the majority of the document was revoked in 2017 when the Birmingham Development Plan was adopted apart from the development control policies set out as Chapter 8 and attached as Appendix 4. The DMB will also supersede a number of outdated Supplementary Planning Documents and Guidance. Authority is therefore also sought to revoke and withdraw the remainder of the UDP as a result of the adoption of the DMB.

## **4 Appendices**

Appendix 1 – Report of the Planning Inspectorate for the ‘Development Management in Birmingham’ Development Plan Document

Appendix 2 - Main modifications

Appendix 3 – Additional (minor) modifications

Appendix 4 – Saved policies of the Birmingham Unitary Development Plan 2005 (Chapter 8) to be superseded

Appendix 5 – Supplementary Planning Guidance to be superseded through the adoption of the Development Management in Birmingham Development Plan Document

Appendix 6 – Final version of ‘The Development Management in Birmingham’ Development Plan Document, including the main modifications and additional (minor) modifications

Appendix 7 - Sustainability Appraisal of the Development Management in Birmingham Development Plan Document and Addendum

Appendix 8 - Sustainability Appraisal of the Development Management in Birmingham’ Development Plan Document Post Adoption Statement

Appendix 9 - Development Management in Birmingham Development Plan Document Adoption Statement

Appendix 10 – Equalities Analysis of the final version of the ‘Development Management in Birmingham’ Development Plan Document

Appendix 11 - Cabinet Report 9th November 2021 – Adoption of the ‘Development Management in Birmingham’ Development Plan Document

## **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

City Council Report 14th July 2020 - Submission of the ‘Development Management in Birmingham’ Development Plan Document

Cabinet Report 16th March 2021 – Consultation on Main Modifications to the ‘Development Management in Birmingham’ Development Plan Document