

**Development Management in Birmingham**

**Development Plan Document**

**Statement of Compliance with the Duty to Cooperate**

**July 2020**

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**1. Introduction**

1.1 This statement sets out how the Development Management in Birmingham Document (DMB) has been prepared in accordance with the ‘duty to co-operate’ and accompanies the Publication version of the DMB.

1.2 The duty to co-operate was introduced through the Localism Act (2011) and places a legal requirement on local planning authorities, county councils and public bodies to engage constructively, actively and on an ongoing basis to maximise the effectiveness of local plan preparation in the context of strategic cross boundary matters.

1.3 The DMB will provide detailed development management policies to be used in the determination of planning applications and will support the delivery of the Birmingham Development Plan (adopted 2017). The DMB, once adopted, will replace the saved policies of the Birmingham Unitary Development Plan (2005) (UDP).

1.4 The DMB does not contain any site-specific allocations or ‘strategic’ policies. The strategic cross boundary duty to co-operate issues were considered through the preparation of the Birmingham Development Plan (BDP). This document sets out the:

* The requirements of the duty to co-operate;
* The strategic planning context and co-operation that has taken place on strategic planning matters;
* Ways in which the Council has co-operated with other local authorities and relevant duty to co-operate bodies in the preparation of the DMB; and
* Duty to co-operate issues raised by representations on the DMB and how these have been addressed.

**2. Requirements of the Duty to Co-operate**

2.1 The duty to co-operate was introduced through the Localism Act (2011) and is set out in section 33A of the Planning and Compulsory Purchase Act 2004. Specifically, the Duty imposed on local planning authorities is ‘to engage constructively, actively and on an ongoing basis’ with other local planning authorities, county councils and other prescribed bodies in preparing development plan documents. The Duty relates to ‘strategic matters’ defined in Section 110 of the Localism Act as:

*a) ‘sustainable development or use of land that has or would have a significant*

*impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas, and’*

*b) sustainable development or use of land in a two-tier area if the development or use*

*i. Is a county matter, or*

*ii Has or would have a significant impact on a county matter*

2.2 Paragraphs 24-27 of the National Planning Policy Framework (NPPF) confirms that local planning authorities and county councils have a duty to co-operate with each other and with other prescribed bodies on strategic matters that cross administrative boundaries.

2.3 Strategic policy-making authorities are expected to collaborate to identify the relevant strategic matters which they need to address in their plans. They should also engage with local communities and relevant bodies. Paragraphs 20-23 of the NPPF sets out the matters that strategic policies should make provision for.

2.4 Appendix 1 of this document sets out the scope of the policies and content of the DMB to establish whether any elements of the document are considered ‘strategic’ and therefore require joint working or collaboration to identify relevant strategic matters.

2.5 The Council concludes that none of the polices proposed in the DMB are ‘strategic’ in the context of the NPPF. Nevertheless, the Town and Country Planning (Local Planning) (England) Regulations 2012 require local planning authorities to consult and co-operate with duty to co-operate bodies when preparing local plans. The representations raised by these bodies and how the Council has co-operated with them is set out in Section 5 of this document.

**3. Strategic Planning Context**

3.1 The duty to co-operate is highly important in the context of Birmingham, which has historically relied on neighbouring authorities to accommodate an element of the city’s growth and development needs.

3.2 The Council successfully demonstrated that it had complied with the Duty in the preparation of the BDP (adopted 2017). The BDP sets out the spatial strategy and overall levels of growth to be delivered in the city over the plan period 2011-2031.

3.3 With Birmingham’s population projected to grow by 156,000 people by 2031, the objectively assessed housing need for city was identified at 89,000 additional homes. While the BDP strategy aimed to accommodate as much of the city’s housing need as possible within its boundary (including a 6,000 dwelling sustainable urban extension), there is a shortfall of 37,900 homes that will need to be provided by other authorities in the Greater Birmingham and Black Country Housing Market Area through the duty to co-operate.

3.4 The BDP sets out the following overall levels of growth:

* 51,100 additional homes (including the Langley Sustainable Urban Extension of 6,000 homes)
* Two Regional Investment Sites of 20 and 25 hectares in Aston and Longbridge
* A 71-hectare strategic employment site at Peddimore (Urban Extension)
* A minimum 5-year reservoir of 96 ha of land for employment use
* About 350,000 sq. m. of comparison retail development
* A minimum of 745,000 sq. m. of office development

3.5 In preparing the BDP, the City Council sought from an early stage to address the duty to co-operate in a pro-active and collaborative way, working closely with neighbouring areas and building on the strong history of strategic planning in the West Midlands. Duty to co-operate discussions focused on a variety of issues including housing, transport, employment land, minerals and waste management. The Duty to Co-operate Statement submitted to support the submission of the BDP can be found at <https://www.birmingham.gov.uk/directory_record/469/duty_to_cooperate>.

**Ongoing** **measures of co-operation**

3.6 Ongoing work in carrying out the ‘duty’ includes:

* Working with neighbouring authorities in relation to the housing shortfall.
* Working with neighbouring authorities in the production of their development plans.
* Working across local authority boundaries through a variety of working groups and partnerships.
* Working collaboratively with the other prescribed bodies.

3.7 The City Council has co-ordinated an approach to ensure that the 14 local authorities in the Greater Birmingham and Black Country Housing Market Area (GBBCHMA) continue to work closely together to address the housing shortfall. The has included the commissioning of evidence base studies (such as the Strategic Growth Study) and establishing a common framework for Green Belt reviews. Critically, the HMA Working Group monitors housing need and requirements, supply and delivery at the HMA level, in order to establish a position to make provision for sufficient housing and employment land going forward. It also acts as a valuable forum to discuss other duty to co-operate matters. All the HMA authorities are actively involved and the group meets approximately every 2-3 months. The latest HMA Position Statement can be found on the link below and is in the process of being updated. <https://www.birmingham.gov.uk/downloads/file/10619/greater_birmingham_hma_strategic_growth_study_position_statement>.

3.8 Authorities in the HMA work closely with each other in the production of their development plans: through the HMA Working Group; formal and informal meetings and through consultations on documents and evidence bases.

3.9 Formal ongoing and standing arrangements for cooperation include:

* + The Duty to Co-operate Working Group
  + West Midlands Combined Authority (WMCA) Board and various steering groups including the Housing and Land Steering Group, Connected to Growth Steering Group, Low Carbon Officers Group, and Zero Carbon Housing Group
  + West Midlands Senior Transport Officers Group
  + Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) Board and officer groups including the GBLSEP Planning Sub-Group
  + West Midlands Aggregates Working Group
  + West Midlands Regional Technical Advisory Board

3.10 In addition to the more formal arrangements set out above, Birmingham City Council also holds meetings as and when required with individual local authorities and bodies to discuss specific topics of interest or concern.

3.11 The preparation of the DMB has been an interactive process and various methods of engagement have been used to enable the community, as well as other local authorities and our statutory partners to influence the final version of the document. Further details on how and who the Council has consulted with, as well as the main issues raised are provided in the Regulation 22 (1)(c) Consultation Statement which accompanies the submission of the DMB.

**4. Evidence of engagement and co-operation**

4.1 Birmingham City Council has undertaken consultation and engagement with relevant local authorities and public organisations to ensure that there has been in the past, and will be in the future, a high level of effective cooperation in the plan making process. The details of the consultation undertaken are set out in the Consultation Statement (Regulation 22).

4.2 Using the Town and Country Planning (Local Planning) (England) Regulations 2012 definition of prescribed bodies the following ‘duty to co-operate consultee’ list was compiled. The Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012 and Paragraph 25 of the NPPF also adds Local Nature Partnerships to the list of collaborators. as well as other relevant private sector bodies, utility and infrastructure providers.

* Relevant Local authorities
* Bromsgrove District Council
* Cannock Chase District Council
* City of Wolverhampton Council
* Coventry City Council
* Dudley Metropolitan Borough Council
* East Staffordshire Borough Council
* Herefordshire Council
* Lichfield District Council
* Malvern Hills District Council
* Newcastle under Lyme Borough Council
* North Warwickshire Borough Council
* Nuneaton and Bedworth Borough Council
* Redditch Borough Council
* Rugby Borough Council
* Sandwell Metropolitan Borough Council
* Solihull Metropolitan Borough Council
* South Staffordshire District Council
* Stafford Borough Council
* Staffordshire Moorlands District Council
* Stratford-on-Avon District Council
* Stoke on Trent City Council
* Tamworth Borough Council
* Telford & Wrekin Council
* Walsall Metropolitan Borough Council
* Warwick District Council
* Worcester City Council
* Wychavon District Council
* Wyre Forest District Council
* Shropshire Council
* Relevant County Councils
* Staffordshire County Council
* Warwickshire County Council
* Worcestershire County Council
* Relevant Parish Councils
* Alvechurch Parish Council
* Bickenhill & Marston Green Parish Council
* Castle Bromwich Parish Council
* Cofton Hackett Parish Council
* Curdworth Parish Council
* Fordbridge Town Council
* Frankley Parish Council
* Kinghurst Parish Council
* Sutton Coldfield Town Council
* Wythall Parish Council
* Shenstone Parish Council
* Weeford Parish Council
* Smiths Wood Parish Council
* Water Orton Parish Council
* Hints and Canwell Parish Council
* Middleton Parish Council
* Wishaw and Moxhull Parish Council
* West Midland Combined Authority
* Environment Agency
* Historic England
* Natural England
* The Civil Aviation Authority
* Homes England
* Primary Care Trusts established under section 18 of the National Health Service Act 2006(2) or continued in existence by virtue of that section;
* NHS Birmingham & Solihull CCG
* NHS Cannock Chase CCG
* NHS Coventry and Rugby CCG
* NHS Dudley CCG
* NHS Herefordshire CCG
* NHS Redditch and Bromsgrove
* NHS Sandwell And West Birmingham CCG
* NHS Shropshire CCG
* NHS South East Staffordshire And Seisdon Peninsula CCG
* NHS South Warickshire CCG
* NHS South Worcestershire CCG
* NHS Stafford And Surrounds CCG
* NHS Walsall CCG
* NHS Wolverhampton CCG
* Birmingham Cross City CCG
* Birmingham South Central CCG
* The Office of Rail Regulation
* Travel for the West Midlands
* West Midlands Trains
* The Marine Management Organisation.
* Black Country LEP
* Coventry & Warwick LEP
* Greater Birmingham & Solihull LEP
* Oxfordshire LEP
* Stoke on Trent & Staffordshire LEP
* The Marches LEP
* Worcestershire LEP
* Birmingham & Black Country Wildlife Trust
* Warwickshire Wildlife Trust
* Worcestershire LNP
* Utility companies
* Mobile operators
* National Grid
* Birmingham and Black Country Wildlife Trust
* Crime Commissioner for West Midlands Police
* Highways Agency

**Consultation with duty to co-operate partners in preparing the Development Management in Birmingham Document**

4.3 The DMB has been subject to three periods of formal consultation:

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)

4.5 At each stage, duty to co-operate bodies, as set out in the list on page 7 were contacted.

4.6 At Stage 1, the bodies were asked if the document and proposed scope of policies raised any strategic planning issues. At Stages 2 and 3, the bodies were consulted on the consultation documents.

**5. Main issues raised by duty to co-operate bodies**

5.1 **Other Local Authorities** - in the first consultation on draft DMB in 2015, Sandwell Metropolitan Borough Council, Stafford Borough Council, Lichfield District Council raised no issues. North Warwickshire Borough Council raised possible strategic issues relating to air quality, light pollution, planning obligations, and education facilities. These have been resolved through engagement and co-operation on the Langley Sustainable Urban Extension Supplementary Planning Document (adopted in May 2019). At the Preferred Options and Publication stages, no further comments were received from any local authorities.

**County Councils** – no comments received.

**Parish Councils** – Frankley Parish Council repeated the same comments they made on the BDP which do not relate to the purpose and content of the DMB. Alvechurch Parish Council considered that the majority of the policies in the DMB would not affect the Parish unless development is proposed adjacent to existing property. It commended that there was no transport policy to consider cross boundary transport integration. Cross boundary transport matters have been addressed through the BDP.

**Environment Agency** – detailed comments regarding water quality and protection have been addressed through the Publication version. No outstanding issues.

**Highways England** – supports the policies. Detailed comments relating to DM1 Air quality have been considered.

**Natural England** – does not consider the DMB to pose any likely risks or opportunity in relation to their statutory purpose.

**Historic England** – detailed minor comments on terminology have been addressed through the Proposed Minor Changes to the Publication version.

**Transport for West Midlands** – supports the general purpose of the DMB. Detailed comments were made only at the Publication stage on DM15 Parking and servicing and DM16 Highway safety and access. The scope of the policies was questioned but it has been highlighted that the issues raised by TfWM are covered by the strategic BDP policies.

**Crime Commissioner for West Midlands Police** – comments were made in relation to a number of policies regarding safety and security. No outstanding issues.

**National Grid** – no comment.

**Severn Trent Water** – no comment.

**6. Conclusion**

6.1 This statement of compliance with the duty to co-operate has demonstrated how the Council has cooperated constructively, actively and on an ongoing basis with neighbouring authorities and other bodies covered by the duty to cooperate under Section 33A of the Planning and Compulsory Purchase Act in preparation of the DMB. The Council considers that is has thoroughly satisfied the requirements of Section 33A in preparation of the DMB. Further evidence to this effect can be found in the following key submission documents:

* Development Management in Birmingham Regulation 22(1)(c) Consultation Statement
* Development Management in Birmingham PAS Local Plan Route Mapper Toolkit Part 4: Plan Soundness and Quality Assessment

6.2 However, it is also evident from this Statement that none of the DMB policies are identified as being ‘strategic’. The main purpose of the DMB is to provide detailed, often criteria-related policies, to support the Birmingham Development Plan (BDP) which contains all of the strategic policies for the city.

6.3 For these reasons, it is deemed that the DMB does not require cross-boundary working, statements of common ground or other forms of on-going joint working. The City Council has kept neighbouring authorities and duty to co-operate bodies informed of progress on the development of the DMB but there has been no cause for the City Council to take any further action in terms of duty to do-operate in line with NPPF requirements due to the non-strategic nature of the DMB.

6.4 The BDP is the product of high level of cross-boundary co-operative working particularly around housing and employment matters as evidenced by the Duty to Co-operate Statement and Appendices submitted to support the submission of the BDP.

6.5 Birmingham City Council also has a high level of permanent and ongoing cooperation with neighbouring authorities and a number of public bodies particularly in relation to strategic planning issues concerning the overall provision for housing and employment needs as well as infrastructure provision. The City Council has co-ordinated an approach to ensure that local authorities continue to work together across its Housing Market Area and the wider region to make provision for sufficient housing and employment land going forward. Robust arrangements are therefore already in place for ongoing cooperation on a wide variety of strategic issues through the forums identified in Section 3.

6.6 The Council therefore believes it has fulfilled and continues to fulfil the requirements under the Duty, as well as those in the NPPF.

**Appendix 1: Screening of policies**

Any of the policies proposed in the DMB could potentially have an impact on a neighbouring authority/ parish council if a development site is adjacent to the authority boundary. the neighbouring authority/ parish council. This does not mean that the policy is ‘strategic’. The definition of strategic policies is based on paragraph 20 of the NPPF.

| **DMB Policy** | **Purpose of the policy** | **Strategic / Non-strategic?** | **Comments** |
| --- | --- | --- | --- |
| DM1 Air Quality | To ensure that development proposals contribute to the management of air quality | Non-strategic | The policy focuses on the impact of individual development proposals on air quality and has no implications on wider strategic growth and development. |
| DM2 Amenity | To ensure that development does not result unacceptable adverse impacts on amenity | Non-strategic | The policy addresses impact of development on amenity and has no implications on wider strategic growth and development. |
| DM3 Land affected by contamination, instability and hazardous substances | To ensure that developments are safe through consideration of risks associated with contamination, instability and hazardous substances | Non-strategic | This policy is limited in its scope to controlling and mitigating risks of development and has no implications on wider strategic growth and development. |
| DM4 Landscaping and Trees | To ensure that landscaping is an integral part of the overall design of development and that development seeks to avoid the loss of and minimise the risk of harm to existing trees, woodland and hedgerows. | Non-strategic | This policy is limited in its scope the impact of development on trees, woodland and hedgerows and has no implications on wider strategic growth and development. |
| DM5 Light pollution | To ensure that the impact of light pollution from new development will be minimised and mitigated. | Non-strategic | The policy deals with the individual impacts of development on light pollution and has no implications on wider strategic growth and development. |
| DM6 Noise and vibration | To ensure that development is designed, managed and operated to reduce exposure to noise and vibration. | Non-strategic | This policy is specific to new developments and has no implications on wider strategic growth and development. |
| DM7 Advertisements | To ensure that advertisements are well sited and designed. | Non-strategic | The policy relates to the siting and design of advertisement proposals and has no implications for wider strategic growth and development. |
| DM8 Places of worship and faith related community uses | To ensure places of worship are appropriately located and to minimise unacceptable adverse impact on local amenity | Non-strategic | The policy is specific to the location of places of worship which do not have wider strategic growth and development implications. |
| DM9 Day Nurseries and early years provision | To ensure that day nurseries are appropriately located and to minimise unacceptable adverse impact on local amenity | Non-strategic | The policy is specific to the location of day nurseries which do not have any implications for wider strategic growth and development. |
| DM10 Standards for residential development | To ensure high quality residential development | Non-strategic | The policy sets residential standards- space, accessible and adaptable homes, outdoor amenity space, separation distances, 45 Degree Code. This policy is not a strategic growth matter. |
| DM11 Houses in multiple occupation | To ensure that such development preserves the residential amenity and character of an area and that harmful concentrations do not arise. | Non-strategic | Policy to deal with HMOs is not considered to be a strategic growth matter. |
| DM12 Residential conversions and specialist accommodation | To ensure that such development is well located, achieves a high standard of design, and protects local amenity | Non-strategic | Policy to deal with residential conversions and specialist accommodation is not considered to be a strategic growth matter. |
| DM13 Self and custom build housing | To support the development of self and custom build housing | Non-strategic | The policy seeks to support and encourage self and custom build housing has no implications on wider strategic growth and development. |
| DM14 Highway safety and access | To ensure that the safety of highway users is properly taken into consideration and that any new development would not have an adverse impact on highway safety. | Non-strategic | The policy deals with the impact of individual developments on the highway network and not the strategic issue of the transport and highway network itself which is dealt with within the BDP. |
| DM15 Parking and servicing | To ensure appropriate parking and servicing provision | Non-strategic | The policy deals with the levels of provision of parking within individual development proposals and has no implications on wider strategic growth and development. |
| DM16 Telecommunications | To set criteria on the development of telecommunications infrastructure | Non-strategic | The BDP provides the strategic approach to the provision digital communications across the City. This policy deals with siting and scale of new mast proposals. |