**Development Management in Birmingham Plan Examination**

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# MATTERS, ISSUES AND QUESTIONS

This document sets out the main matters, issues and questions (MIQs) regarding the soundness of the Development Management in Birmingham Plan (the Plan) and should be read in conjunction with the Inspector’s Examination Briefing Note.

Prior to the forthcoming Hearing sessions, responses are invited from participants on the MIQs. Not every policy in the Plan is covered by the MIQs. Instead they are based on the issues I have identified, taking into account the views of the Council and representations.

**Matter 1: Legal Compliance, including the Duty to Co-operate**

**Issue: Whether the Plan has been prepared with due regard to legal and procedural requirements and the Duty to Co-operate has been satisfied.**

**Questions**

Q1. Is the Duty to Cooperate, which covers strategic matters, applicable to the Plan? If so has the Council adequately discharged the Duty to Cooperate in preparing the Plan under sections 22(5)(c) and 33A of the 2004 Act and Regulation 4 of the 2012 Regulations and with regard to the advice contained in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG)?

Q2. Does the Council’s Statement of Compliance with the Duty to Cooperate (CSD15) demonstrate that the Duty to Co-operate has been met?

Q3. Does the content and timescale for preparation of the Plan accord with the latest version of the Local Development Scheme (LDS) (CSD16).

Q4. What is the scope of the Plan?

Q5. Having regard to the Plan and the Council’s intentions, as set out in the LDS, are there any obvious policy omissions from the submitted plan?

Q6. Has the Plan been prepared and publicised in accordance with the statutory procedures of the 2004 Act (as amended) and the consultation requirements in the Regulations?

Q7. Has the Plan been produced in compliance with the Council’s Statement of Community Involvement (CSD13 and CSD14)?

Q8. Has the Plan followed a sound process of Sustainability Appraisal?

Q9. Has the Sustainability Appraisal been undertaken at each stage of the Plan’s preparation to clearly justify the Council’s policy choices in line with Section 19(5) of the 2004 Act?

Q10. Have the likely environmental, social and economic effects of the Plan been adequately assessed in the Sustainability Appraisal?

Q11. Has the Sustainability Appraisal tested against reasonable alternative policies?

Q12. Has the Sustainability Appraisal been robustly prepared with a comparative and equal assessment undertaken of each reasonable alternative?

Q13. Are the reasonable alternatives sufficiently distinct such that meaningful comparisons can be made of different sustainability implications?

Q14. Does it represent an appropriate strategy in the circumstances?

Q15. Does the final report set out the reasons for rejecting earlier options?

Q16. Are the likely effects of the Plan adequately and accurately assessed in the Habitats Regulations Assessment and any requirement for Appropriate Assessment?

Q17. Does the Plan as a whole include policies designed to ensure that the development and use of land contributes to the mitigation of, and adaptation to, climate change in accordance with Section 19(1A) of the Planning and Compulsory Purchase Act (as amended)?

Q18. Has the preparation of the Plan complied with the Planning and Compulsory Purchase Act 2004 Part 2 and the Town and Country Planning (Local Plan) (England) Regulations 2012 in all other respects?

**Matter 2: Compliance with the Birmingham Development Plan**

**Issue: Whether the Plan gives effect to and is consistent with the Birmingham Development Plan**

**Questions**

Q19. Have the overall strategic aims and objectives of the Birmingham Development Plan been complied with?

Q20. Does the Plan make it clear, as required by Part 4, paragraph 8(5) of the Local Plan Regulations, which parts of the Birmingham Unitary Development Plan it will supersede?

**Matter 3: Environment and Sustainability Policies**

**Issue: Are the individual policies clear, justified and consistent with national policy and will they be effective?**

**Questions**

**Policy DM1 Air Quality**

Q21. Is the policy consistent with national policy relating to air quality?

Q22. Is the policy wording sufficiently clear and effective for Development Management purposes? Would the modifications proposed by the Council address any shortcomings in this respect?

Q23. Does the policy adequately address the use of mitigation measures?

**Policy DM2 Amenity**

Q24. Is it clear what is meant by vicinity in 1.h of the policy?

Q25. Does the policy adequately protect the amenity value of canals?

Q26. Is there any overlap between Policy DM2 and Policy DM10 of the Plan?

Q27. Are the criteria in the policy flexible enough to enable housing delivery

 and be consistent with the National Planning Policy Framework?

**Policy DM3 Land affected by Contamination, Instability and Hazardous Substances**

Q28. Are the requirements of the policy consistent with national policy?

Q29. Are the requirements of the policy effective and would the modifications proposed by the Council overcome the shortcomings in this respect?

Q30. Has the impact on viability been adequately considered?

**Policy DM4 Landscaping and Trees**

Q31. Is the Policy consistent with national policy? Do the proposed amendments by the Council address the shortcomings in this respect?

Q32. Is point 1 of the Policy on landscaping schemes justified and effective?

Q33. Is point 2 of the Policy clear and effective?

Q34. Is point 3 of the Policy wording effective? Would the Council’s suggested amendments address the shortcomings in this regard?

Q35. Are points 3 and 4 of the Policy positively prepared and justified?

Q36. Is point 5 of the Policy clear and effective? Would the Council’s suggested amendments address the shortcomings in this regard?

Q37. Is paragraph 2.39 of the supporting text effective? Would the Council’s suggested amendments address the shortcomings in this regard?

Q38. Is the use of the Capital Asset Value for Amenity Trees methodology justified, including consideration of the impact on viability and is it clear which method will be used in the policy (full method or quick method)?

Q39. Should the Policy recognise and give value to the ecological and landscape value of lost trees?

Q40. Should the Policy identify where off site s106 contributions for replacement tree planting will be located?

Q41. Should part 5 of the Policy refer to the Council’s Tree Strategy? Would the amendment proposed by the Council address the shortcomings in this regard?

Q42. Is the Policy effective in enabling the long term management of landscaping schemes?

**Policy DM5 Light Pollution**

Q43. Is the wording in the Policy consistent with national policy?

Q44. Should the Policy make reference to the safety and security benefits of lighting dark places?

**Policy DM6 Noise and Vibration**

Q45. Is the wording in the Policy consistent with national policy?

Q46. Is point 1 of the Policy effective? Would the Council’s suggested amendments address the shortcomings in this regard?

Q47. What is the status of the Noise and Vibration Guidance Note referred to in paragraph 2.52 of the supporting text and is greater clarity required on the weight it should be given in the determination of planning applications?

**Policy Omissions**

Q48. Should the Plan contain a Policy on Listed Buildings and Conservation

 Areas?

**Matter 4: Economy and Network of Centres Policies**

**Issue: Are the individual policies clear, justified and consistent with national policy and will they be effective?**

**Questions**

**Policy DM7 Advertisements**

Q49. Should point 3 of the Policy refer to roads other than the M6 and A38(M)?

Q50. Should criteria a of the Policy include reference to crime, anti social behaviour and the fear of crime?

Q51. Should specific reference be made in the Policy to the impact of advertisements on the waterway network?

**Policy DM8 Places of Worship and Faith Related Community Uses**

Q52. Is the Policy consistent with Policy GA5 of the Birmingham Development Plan? Would the modifications proposed by the Council overcome the shortcomings in this respect?

Q53. Should the Policy also include reference to measures to address crime and the fear of crime?

**Policy DM9 Day Nurseries and Childcare Provision**

Q54. Is the Policy consistent with Policy TP21 and Policy GA5 of the Birmingham Development Plan? Would the Council’s proposed modifications address the shortcomings in this respect?

Q55. Are the provisions of Policy DM9 consistent with the provisions of Policy DM8?

Q56. Is the wording of paragraph 3.19 of the supporting text sufficiently precise to be effective?

Q57. Is the wording of paragraph 3.20 of the supporting text clear and effective? Would the Council’s proposed amended wording address the shortcomings in this respect?

**Policy Omissions**

Q58. Do Policies DM2, DM13 and DM14 adequately address the provisions previously covered in paragraphs 8.6-8.7 of the Birmingham Unitary Development Plan rendering a Policy on hot food takeaways, drinking establishments, restaurants and cafes unnecessary?

Q59. Should the Plan contain a Policy on automatic teller machines (ATM)?

**Matter 5: Homes and Neighbourhoods Policies**

**Issue: Are the individual policies clear, justified and consistent with national policy and will they be effective?**

**Questions**

**Policy DM10 Standards for Residential Development**

Q60. Is there sufficient evidence to justify the use of the Nationally Described Space Standards?

Q61. Has the effect of the use of space standards on viability been adequately demonstrated?

Q62. Should the policy include a transitional period?

Q63. Is there sufficient evidence to justify the requirement for 30% of dwellings to meet M4(2) Category 2 – Accessible and Adaptable Dwellings?

Q64. Are the requirements of point 4 of the Policy effective and will they impact on the deliverability of sites?

Q65. Is point 5 of the Policy effective?

Q66. Is point 6 of the Policy effective in enabling flexibility within the Policy? Does the change proposed by the Council address the shortcomings in this regard?

Q67. Is the weight of Policy being applied to the Birmingham Design Guide? Do the Council’s proposed modifications overcome this?

Q68. Should the Policy make reference to Secured by Design Standards?

**Policy DM11 Houses in Multiple Occupation**

Q69. Is the Policy wording effective? Would the Council’s suggested modification address the shortcomings in this respect?

Q70. Is criterion e of the Policy sufficiently clear and effective for Development Management purposes?

Q71. Should criterion e of the Policy include reference to safety, security and the fear of crime?

**Policy DM12 Residential Conversions and Specialist Accommodation**

Q72. Is the wording of the Policy effective? Would the Council’s suggested modifications address the shortcomings in this respect?

Q73. Is the Policy clear and effective in identifying what types of development are included/ excluded?

**Policy DM13 Self and Custom Build Housing**

Q74. Is the Policy justified?

Q75. Is the Policy effective in encouraging and providing for self-build and custom-build housing?

Q76. Is point 3 of the Policy wording effective? Would the Council’s suggested modifications address the shortcomings in this respect?

Q77. Should the Policy include reference to Secured by Design Standards?

**Policy Omission**

Q78. Should the Plan contain a Policy on student accommodation?

**Matter 6: Connectivity Policies**

**Issue: Are the individual policies clear, justified and consistent with national policy and will they be effective?**

**Questions**

**Policy DM14 Highway Safety and Access**

Q79. Is the wording of the Policy consistent with national policy? Does the Council’s proposed modifications address the shortcomings in this regard?

Q80. Is the Policy wording effective in promoting sustainable travel?

Q81. Would the provisions of the Policy restrict the operations of employment areas outlined in Policy TP19 of the Birmingham Development Plan and therefore be inconsistent with this Policy?

Q82. Is it clear what is meant by ‘Birmingham strategic highway network and other principle distributer routes’? Would the Council’s suggested amendment address the shortcomings in this respect?

Q83. Is criterion 6.e of the Policy effective? Would the Council’s suggested amendment address the shortcomings in this respect?

Q84. Should the Policy identify the types of planning obligation requirements expected of developers?

**Policy DM15 Parking and Servicing**

Q85. Is the Policy consistent with national policy?

Q86. Does the wording of the Policy attempt to give Development Plan Document status to the Parking Supplementary Planning Document? Would the Council’s proposed modifications address the shortcomings in this regard?

Q87. Is the inclusion of electric vehicle parking charging points within the Policy

 justified?

Q88. Has the impact of electric vehicle charging points on viability been

 adequately considered?

 Q89. Has the impact on electric charging points on power supply been

 adequately considered?

Q90. In paragraph 5.15 of the supporting text is it clear what is meant by ‘adequate functional space’?

Q91. Should point 3 of the Policy make reference to the design of servicing?

 Does the Council’s proposed modification address the shortfall in this

 respect?

Q92. Should the Policy also include standalone parking in regeneration areas?

**Policy DM16 Telecommunications**

Q93. Is the policy effective in its treatment of digital services and mobile connectivity?

**Policy Omissions**

Q94. Is the Plan effective in the way it deals with matters of public realm, healthy living and active travel?

**Matter 7: Implementation and Monitoring**

**Issue: Whether the Plan would be viable and deliverable within the Plan period and whether the arrangements for monitoring are robust**

**Questions:**

Q95. Would new development be able to accommodate the Plan’s policy requirements having regard to viability and is this supported by evidence in the viability study?

Q96. Will the monitoring framework provide a robust basis for assessing the Plan’s outcomes and are the indicators appropriate?

Q97. In the absence of targets or triggers how would effective monitoring take place?

Q98. Does the Plan have sufficient flexibility to respond to changing

 circumstances?