The Planning Inspectorate

Report to Birmingham City Council

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an Inspector appointed by the Secretary of State for Communities and Local Government

Date 11 March 2016

PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

Report on the Examination of the Birmingham Development Plan ("Birmingham Plan 2031")

The Plan was submitted for examination on 1 July 2014

The examination hearings were held between 21 October and 27 November 2014

File Ref: PINS/P4605/429/7

Abbreviations Used in this Report

the 2004 Act	*Planning and Compulsory Purchase Act 2004* (as amended)
AA	Appropriate Assessment
AAP	Area Action Plan
BCAs	Black Country Authorities
BCC	Birmingham City Council
BDP	*Birmingham Development Plan*
BMV	Best and most versatile
BW	Barton Willmore
the Council	Birmingham City Council
CHP	Combined Heat and Power
CIL	Community Infrastructure Levy
DCLG	Department for Communities and Local Government
dpa	dwellings per annum / year
dph	dwellings per hectare
ELOTS	*Employment Land and Office Targets Study*
HMA	Housing Market Area
HRRs	Household Representative Rates
IF	Inspector's Interim Findings
GBSLEP	Greater Birmingham and Solihull Local Economic Partnership
LAA	Local Aggregate Assessment
LDS	Local Development Scheme
LEP	Local Economic Partnership
LIT	Longbridge Infrastructure Tariff
LTBHM	Long-Term Balancing the Housing Market (Model)
LPA	Local Planning Authority
MM	Main Modification
MoU	Memorandum of Understanding
MPA	Minerals Planning Authority
MSA	Minerals Safeguarding Area
MYEs	Mid-Year Estimates
NPPF	*National Planning Policy Framework*
NWGC	North Worcestershire Golf Club
ONS	Office for National Statistics
the Plan	*Birmingham Development Plan*
PPG	*Planning Practice Guidance*
PPTS	*Planning Policy for Traveller Sites*
RIS	*Regional Investment Site*
SA	Sustainability Appraisal
SHNS	*Strategic Housing Needs Study*
SCI	Statement of Community Involvement
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
2012 SHMA	*Birmingham Strategic Housing Market Assessment 2012*
SPRG	*Spatial Plan for Recovery and Growth*
SUE	Sustainable Urban Extension
UDP	*Birmingham Unitary Development Plan 2005*
UPC	Unattributable Population Change
WSP PB	WSP Parsons Brinckerhoff

Non-Technical Summary

This report concludes that the Birmingham Development Plan [BDP] provides an appropriate basis for the planning of the city, provided that a number of modifications are made. Birmingham City Council have specifically requested me to recommend any main modifications [MMs] necessary to enable the BDP to be adopted.

The MMs all concern matters that were discussed at the examination hearings. Following the hearings, the Council prepared schedules of the proposed modifications and carried out sustainability appraisal of them. The MMs were subject to public consultation over an eight-week period. In some cases I have amended their detailed wording in the light of the responses. I have recommended that the MMs be included in the BDP after considering all the representations made in response to consultation on them.

The purposes of the recommended MMs can be summarised as follows:

- To ensure that the levels of housing, employment, office and retail development to be provided over the Plan period, and the objectively-assessed needs for market and affordable housing, are accurately identified;
- To ensure that the housing delivery trajectory seeks to bring forward housing as early as possible to meet the identified needs;
- To provide sites to meet the identified needs of Gypsies and Travellers;
- To ensure that there are adequate arrangements to secure the provision of housing elsewhere in the Greater Birmingham Housing Market Area to meet the shortfall of provision in Birmingham;
- To ensure that there is an appropriate relationship between the policies in the BDP, adopted Area Action Plans and Supplementary Planning Documents;
- To identify accurately the transport and other infrastructure improvements that are sought by the BDP, and the mechanisms for securing developer contributions towards them;
- To ensure that the BDP's development management and site allocation policies are justified, effective and compliant with national policy;
- To ensure that the position of defined centres in the hierarchy is consistent with the evidence;
- To ensure that the BDP contains effective policies to deal with flood risk and drainage, minerals and waste;
- To ensure that the BDP's policy requirements take adequate account of viability considerations;
- To provide a sound monitoring framework for the BDP;
- To clarify the status of the illustrative plans that appear in the BDP;
- To state correctly the existing adopted development plan policies that are to be superseded by the BDP.

Introduction

Scope and purpose of the examination

1. The Birmingham Development Plan [hereafter referred to as "the BDP" or "the Plan"] makes provisions for development in the city over the period to 2031. It also has the informal title of *Birmingham Plan 2031*. This report contains my assessment of the BDP in accordance with Section 20(5) of the *Planning and Compulsory Purchase Act 2004* (as amended) [the 2004 Act]. It considers whether the Plan's preparation has complied with the duty to co-operate, in recognition that there is no scope to remedy any failure in this regard. It then considers whether the BDP is sound and compliant with the other relevant legal requirements. At paragraph 182 the National Planning Policy Framework [NPPF] advises that in order to be found sound, a Local Plan must be positively prepared, justified, effective and consistent with national policy.

2. The starting point for the examination is the assumption that Birmingham City Council [BCC / the Council] consider the submitted BDP to be sound. The BDP Pre-submission version [SUB1], as submitted in June 2014, is the basis for my examination. It is the same document as was published for consultation in December 2013.

3. Where reference is made in this report to an examination document, the document number is quoted, eg [SUB1], [EXAM 1]. All the examination documents are available on the BDP website.

Inspector's Interim Findings

4. Hearings were held in October and November 2014 to discuss a wide range of matters of soundness and legal compliance. In January 2015, I issued Interim Findings [IF, EXAM 131] on three key topics: the objective assessment of housing need, sustainability appraisal [SA], and the duty to co-operate. My IF, which form the **Annex** to this report, took account of all the relevant representations made and evidence submitted at the time of their preparation. In order to avoid unnecessary repetition, I do not go over the ground they cover again in this report, but I refer to them wherever they are relevant.

5. My IF recommended that the Council should carry out additional work in respect of the objective assessment of housing need, SA and the duty to co-operate. In response, a Supplementary Report on housing need and a Revised Sustainability Report were published as EXAM 145[1] & 146[2] in March 2015. I invited comments on them from those who had participated in the relevant hearings session, and responses to their comments from BCC. As a result, further work on SA was carried out and a further Revised Sustainability Report was published as EXAM 154[3] in June 2015. Consultation was carried out on the further Revised Sustainability Report alongside consultation on the main

[1] Peter Brett Associates, *Examination of the Birmingham Development Plan, Objectively Assessed Housing Need Supplementary Report*, March 2015

[2] AMEC Foster Wheeler, *Sustainability Appraisal of the Birmingham Development Plan, Revised Sustainability Report,* March 2015

[3] AMEC Foster Wheeler, *Sustainability Appraisal of the Birmingham Development Plan, Revised Sustainability Report,* June 2015

modifications, and I have taken account of all the representations made on it in this report.

6. The duty to co-operate is considered separately below.

Consultation

7. The Council carried out widespread public consultation over an eight-week period, both on the Plan before its submission and on the proposed main modifications. I have taken account of all the responses to those consultations in preparing this report. The Council contacted everyone on their extensive consultation database, including all those who had commented on previous iterations of the Plan. Notices were also placed in local newspapers and on the Council's website. At pre-submission stage, officers held information sessions in local libraries and attended District and Ward committees and other local meetings on request.

8. A very large number of representations were received at both stages of consultation, from local residents and businesses, community organisations, neighbouring local authorities, statutory agencies, developers and others. The majority of the representations were critical of the Plan, and most notably of its proposals for development allocations in the Green Belt. These are clear indications that the consultation process gave all those potentially affected by the Plan an adequate opportunity to express their views.

9. Nonetheless, a significant number of representors expressed concern about the adequacy of the consultation process on the Plan. Some of this criticism focussed on what they saw as its lack of clarity. The plan-making process is, unfortunately, inherently complex and it is difficult to see how the Council could have made matters any simpler. Having said that, however, the vast majority of the representations that were made showed a clear grasp of the issues and were articulately expressed.

10. There were also complaints that the Council did not take adequate account of the views expressed during consultation. It is true that, while significant changes have been made in the light of consultation, many of the main proposals, including the Green Belt allocations, have not fundamentally altered. However, that in itself does not indicate any deficiency in the consultation process. In this report I consider whether any further modifications are necessary to make the Plan sound.

11. Representors also pointed out that certain evidence documents, including some of the reports on the transport modelling of the Green Belt allocations, were not made publicly available in time to inform pre-submission consultation on the Plan. However, all the relevant documents were made available to hearing session participants, including residents and representatives of community groups, in time to permit thorough comment and discussion on them. It is most unlikely that any additional points would have been made, had the documents been available sooner. I am satisfied therefore that consultation on the Plan was not compromised by a lack of information.

12. Taking all these points into account, I find that satisfactory consultation was carried out on the Plan. The consultations met all the relevant legal

requirements, including compliance with the Council's *Statement of Community Involvement* [HTY1].

Main modifications

13. In accordance with section 20(7C) of the 2004 Act the Council asked me to recommend main modifications [MMs] to rectify any deficiencies that make the BDP unsound/not legally compliant and thus incapable of being adopted. The MMs are referenced in bold in the report in the form **MM1**, **MM2, MM3** etc, and are set out in full in the **Appendix** to this report. The Council may choose to make additional modifications to the BDP before it is adopted, as long as they do not materially affect the policies it contains[4].

14. The MMs all concern matters that were discussed at the examination hearings. Following the hearings, the Council prepared schedules of proposed main modifications and carried out SA of them. The MMs were subject to public consultation over an eight-week period in August, September and October 2015 and I have taken account of the responses in coming to my conclusions in this report. The Council also published a schedule of proposed additional modifications for consultation at the same time as the MMs.

15. In order to avoid over-complicating the consultation process, I advised the Council that, for each policy in the main modifications schedule, all the proposed modifications should be set out under a single MM number. This means that some MMs, which are relevant to more than one issue, are mentioned more than once in this report. It also means that, as well as the changes that are necessary for soundness, some MMs also include minor changes that could in principle have been made as additional modifications. This report does not explicitly refer to those minor changes.

16. In the light of the consultation responses, I have made some amendments to the detailed wording of the MMs, mainly in the interests of clarity and consistency. Where necessary I provide further explanation of them in this report. None of the amendments significantly alters the content or purpose of the modifications as published for consultation, or undermines the participatory processes or SA. Thus no further consultation is necessary.

Policies Map

17. When submitting a Local Plan for examination, Councils are required to provide a submission Policies Map showing the changes to the adopted Policies Map that would result from the proposals in the Local Plan[5]. For the BDP, the submission Policies Map is document SUB 4, dated June 2014. An online version of the Policies Map is published on the BDP website.

18. The Policies Map is not defined in statute as a development plan document and so I do not have the power to recommend MMs to it. However, a number of the published MMs to the Plan's policies require further corresponding changes to be made to the Policies Map. Those further changes to the Policies Map were published for consultation alongside the MMs. In this report, I identify

[4] See s23 of the 2004 Act.
[5] See Articles 22(1)(b) & 2(1) of the 2012 Regulations.

any amendments that are needed to those further changes in the light of the consultation responses.

19. When the BDP is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted Policies Map to include the corresponding changes published alongside the MMs (incorporating any necessary amendments identified in this report).

Assessment of Duty to Co-operate

20. Section s20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on them by section 33A in respect of the Plan's preparation. I considered this question thoroughly in my IF and determined that it would be reasonable to conclude that the Council had complied with the relevant legal requirements in respect of their duty to co-operate in the preparation of the BDP[6]. There has been no subsequent evidence to cause me to alter that view.

21. In my IF, I also considered the outcome of co-operation between BCC and other organisations in terms of the soundness of the BDP, and made a number of recommendations for further work in this regard[7]. That further work is considered in the following sections of this report, in the context of the relevant soundness issues.

Assessment of Soundness

Main Issues

22. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings I have identified **13 main issues** upon which the soundness of the Plan depends. They are considered in turn below.

Issue A – *Do sections 1, 2 and 3 of the BDP set out a sound basis for its policies and proposals? Are the provisions of policies PG2 and PG3 justified and effective?*

23. Sections 1, 2 and 3 of the BDP respectively set out the Plan's preparation history, purpose and structure; a description of present-day Birmingham and the challenges the city faces; and the BDP's vision for the city in 2031, the Plan's objectives, and a summary of its strategy. Paragraph 1.12 makes it clear that on adoption the BDP will replace all the saved policies in the *Birmingham Unitary Development Plan 2005* [UDP], apart from a few policies that will continue in force until the adoption of the forthcoming *Development*

[6] See Annex, para 71.
[7] See Annex, para 84.

Management DPD. **MM1** is necessary to rectify an omission in the list of policies that will remain in force.

24. The BDP's vision and objectives reflect the NPPF's emphasis on positive planning to achieve sustainable development. In similar fashion, policy PG2 establishes a positive approach towards development and investment, while policy PG3 sets out an overarching requirement for high quality in all aspects of design. **MM4** is needed to remove a potentially misleading reference in PG3 to design "standards".

25. Subject to these MMs, which are needed to ensure the Plan's effectiveness, I find that sections 1, 2 and 3 of the BDP set out a sound basis for its policies and proposals, and that the provisions of policies PG2 and PG3 are justified and effective.

Issue B – *Does the BDP appropriately identify housing needs and does it set out effective measures to meet them in accordance with national policy?*

Objective assessment of housing needs

26. Paragraph 47 of the NPPF advises that Local Plans should meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the NPPF's policies. The essential first step in this process is to identify the full, objectively assessed housing needs.

Assessing overall housing need

27. A *Strategic Housing Needs Study* for the Greater Birmingham Housing Market Area[8] [HMA] has been commissioned by the Greater Birmingham and Solihull Local Economic Partnership [GBSLEP] and the four Black Country local authorities [BCAs]. Its Stage 2 Report [*SHNS Stage 2*, EXAM 90], published in November 2014, assesses housing need across the HMA. For Birmingham, it projects a need for between about 89,000 and 116,000 new dwellings over the period 2011 to 2031[9]. The Council accept that *SHNS Stage 2* provides a sounder basis than their own *Strategic Housing Market Assessment 2012* [2012 SHMA, H2] for assessing overall housing need in Birmingham over the Plan period, because it is based on more up-to-date evidence.

28. In my IF, I endorsed the general approach of *SHNS Stage 2* but made it clear that further work needed to be carried out on four specific aspects. These were addressed in March 2015 in the *Objectively Assessed Housing Need Supplementary Report* [EXAM 145] and are considered in turn below. At my request, the *Supplementary Report* also reviewed relevant aspects of the alternative assessment of housing need submitted to the examination by

[8] For the definition of the extent of the HMA, see my IF, paras 8 & 9.
[9] EXAM 90, Table 3.4 & para 3.43

Barton Willmore [BW][10], and considered the implications for Birmingham of the 2012-based household projections, published by the Department for Communities and Local Government [DCLG] in February 2015.

29. Stage 3 of the GBSLEP *Strategic Housing Needs Study* [*SHNS Stage 3*, EXAM 162] was published in August 2015. It provides an update on housing need across the HMA but adds nothing of significance to *SHNS Stage 2* or the *Supplementary Report* as regards the assessment of Birmingham's own needs. However, I have taken account of the additional evidence on this issue contained in BW's *Birmingham Sub-Regional Housing Note* (October 2015), submitted with their response to consultation on the MMs.

30. In respect of Household Representative Rates [HRRs], the March 2015 *Supplementary Report* argues that two sets of factors account for the downturn in household formation, among younger adults in particular, that is apparent from the 2011 Census. The first is the severe economic recession that began in 2008, while the second comprises longer-term social trends including more precarious employment, especially for younger adults, student fees, and higher numbers of international migrants, who appear to be more likely to live in shared households during young adulthood. While the direct effects of the recession may wear off as the economy recovers, the social trends are likely to be longer-lasting.

31. This assessment is broadly supported, notwithstanding some differences in emphasis, by recent papers from two academic demographers[11]. In my view, it is a more comprehensive and convincing account of likely trends in household formation in Birmingham over the Plan period, than one that foresees a full return to the rates of household growth experienced in recent decades.

32. It follows that it is unnecessary to base household projections on a full return by 2031 to the HRRs embodied in the 2008-based DCLG projections (whether for all age groups or specifically for younger adults), in order to avoid suppressing future household formation. On the other hand, in view of the improvement in economic conditions since 2008, it would be unwise to assume that rates of household formation over the period to 2031 will not exceed the historically low rates embodied in the interim 2011-based DCLG household projections.

33. On this basis, I find that an "index" approach to HRRs, which involves a partial, rather than a full, return to the trend reflected in the 2008-based projections, is sound. This "index" approach was employed in *SHNS Stage 2* in order to adjust the interim 2011-based household projections to take account of likely trends after 2021. It is relevant to note that if the same approach is applied to the latest Office for National Statistics [ONS] 2012-based population projections, it produces 2011-31 household projections for

[10] *Birmingham Sub-Regional Housing Study Part 2 Addendum* (September 2014) – appended to Barton Willmore's Matter A Hearing Statement. I have also taken account of BW's response to the *Supplementary Report* [EXAM 145E].

[11] A Holmans, *New Estimates of Housing Demand and Need in England, 2011 to 2031*, Town & County Planning Tomorrow Series Paper 16, TCPA, September 2013; and L Simpson, "Whither Housing Projections?" in *Town and Country Planning,* December 2014

Birmingham that correspond very closely to the DCLG 2012-based household projections[12]. (The difference between the respective household growth figures is less than 1%).

34. That is significant because the DCLG 2012-based household projections use a different methodology for calculating HRRs from that used in the 2011-based projections. In particular, for Birmingham, the 2012-based projections assume considerably higher household formation rates among 25- to 34-year-olds[13]. In effect, therefore, these official projections also embody a partial "return to trend", for this younger adult age group especially, compared with the 2011-based figures. According to the DCLG methodology paper, while it is proposed to carry out more detailed analysis of Census 2011 data on household formation, in the meantime the 2012-based projections are regarded as the most up-to-date and nationally consistent estimates.

35. Unattributable Population Change [UPC] is the term coined by ONS for an unexplained difference between the mid-year population estimates [MYEs] that have been updated to take account of the 2011 Census, and the previous "rolled-forward" MYEs that pre-dated the 2011 Census. For the 2011 MYEs, at the national level, UPC amounts to 103,700 – a small proportion of the total UK population. At the local level, however, UPC is distributed very unevenly with some local planning authorities [LPAs] experiencing "positive" and others "negative" UPC. The positive UPC figure for Birmingham is relatively high, at around 25,000.

36. According to ONS, UPC is likely to result from a combination of sampling variability in the 2001 and 2011 Census estimates and migration estimates. However, the exact causes, and the extent to which each factor is responsible, are unclear. Moreover, as the base population figures have now been updated in line with the 2011 Census, UPC is only significant for future projections if it indicates inaccuracy in the trend data underpinning them. ONS's quality assurance did not reveal any problems indicating that adjustments to the 2012-based population projections to account for UPC were necessary[14]. Hence those projections make no allowance for UPC. DCLG's 2012-based household projections follow suit.

37. Nonetheless, it is relevant to consider whether an adjustment should be made for UPC at the local level. The *Supplementary Report* considers UPC within the Greater Birmingham HMA in detail and finds no evidence that would help disentangle its causes. One significant factor appears to be that, until fairly recently, the initial allocation of international migrants to local authority areas based on surveys at arrival airports has been prone to error. Thus it is difficult to rely on UPC figures at the LPA level even where they are substantial, as in Birmingham. Including UPC in future projections of local housing need would compound this and other existing errors and uncertainties.

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[12] See *Supplementary Report*, paras 2.36-2.37 & Table 2.3. The 2012-based population projections were not available when *SHNS Stage 2* was prepared.
[13] See Barton Willmore, *Birmingham Sub-Regional Housing Note*, Appendix 1.
[14] ONS, *2012-based Subnational Population Projections for England, Report on Unattributable Population Change* (20 January 2014)

38. BW's October 2015 Note points out[15] that average annual net in-migration to the UK between 2005 and 2015 was about 73,000 persons higher than the annual figure assumed in the 2012-based household projections (238,000 against 165,000). However, there is no direct read-across between these figures and UPC. ONS's view is that, insofar as UPC may be due to errors in measuring international migration, it will have a reducing impact on future projections over time, because of improvements that have already been made to migration estimates[16].

39. Taking all these points into account, I agree with the Council's view that no account should be taken of UPC in the assessment of Birmingham's overall housing need. There is a separate question as to whether account should be taken of the evidence on net migration figures referred to in the BW Note. But it cannot necessarily be assumed that recent international migration trends will prevail throughout the Plan period. Nor does there appear to be clear evidence on how they would translate into population change at the local level. In addition, as noted above, it appears that migrants' household formation patterns may differ in some respects from those of the indigenous population.

40. On the evidence before me, therefore, I see no sound basis on which the household projections for Birmingham could be reliably adjusted to take account of recent national migration figures. Future official projections of population and household growth will no doubt take full account of changes in migration trends. Should these have significant consequences for Birmingham the appropriate response would be to review the Plan accordingly.

41. In respect of future employment growth, the *Supplementary Report* demonstrates that both the minimum and maximum housing growth figures projected by *SHNS Stage 2* would meet the corresponding projections of employment growth produced by Experian. No higher forecasts of employment growth were presented to challenge that finding.

42. As advised by the national *Planning Practice Guidance* [PPG], the *Supplementary Report* reviewed a range of market signals. Although the levels of over-occupancy and "concealed" households in Birmingham are above the regional and national averages, this appears to correlate with the higher-than-average proportion of people from ethnic minorities living in the city. ONS acknowledge that this correlation may in part reflect closer familial ties in some minority-ethnic cultures[17]. Moreover, as indicated above, higher numbers of "concealed" or "sharing" households are also likely to be due, in part, to wider social trends rather than resulting solely from a shortfall in housing provision.

43. While house prices and affordability ratios in Birmingham undoubtedly rose substantially between 1997 and 2007 before levelling off, the graphs in BW's October 2015 Note show that their pattern of growth tracked the national pattern. In absolute terms the latest available figures for Birmingham remain considerably below the national average, with the city's affordability ratio in particular showing some improvement from its 2007 peak. There is, however,

[15] The Note references the ONS *Migration Statistics Quarterly Report*, August 2015.
[16] See the ONS 20 January 2014 Report (note 14 above), p.4.
[17] See EXAM 145, para 5.22.

some evidence that rents in Birmingham have been rising more quickly than the national average since 2010.

44. On the other hand, rates of development in the city show very strong performance between 2004 and 2009, outstripping the former regional housing targets more than twofold. From 2009 the effects of the financial crisis and a subsequent, gradual recovery are evident, but there is nothing to indicate that the position in Birmingham is unusual in this respect. As will be seen below, the Plan itself proposes a very substantial uplift in housing completions from 2015 onwards.

45. Drawing these points together, I find no strong market signal evidence to justify a further increase to the index-based household projections set out in the *SHNS Stage 2* report. As already noted, those projections give housing need figures for Birmingham ranging from 89,000 to 116,000. UPC is the principal factor that accounts for the difference between them[18]. Thus excluding UPC from the assessment of housing need, for the reasons given above, indicates that the lower need figure of 89,000 should be preferred.

46. As the *Supplementary Report* acknowledges, if the latest, 2012-based DCLG household projections had been available when work began on *SHNS Stage 2*, they would naturally have formed the starting-point for that work. But to begin the analysis all over again at this stage would represent disproportionate effort and cause unacceptable delay to the BDP. As the PPG points out, housing assessments are not automatically rendered outdated every time new projections are issued[19].

47. Having reviewed all the relevant evidence, I am satisfied therefore that the figure of 89,000 net additional dwellings represents a sound objective assessment of the overall need for housing in Birmingham during the BDP period.

Assessing affordable housing need

48. Affordable housing need in Birmingham is assessed in Parts A and C of the 2012 SHMA. The detailed methodology employed in Part A follows the then-current DCLG needs assessment model[20], which advised that need should be assessed over a five-year period. On that basis, the unadjusted net annual need is calculated as 10,427 dwellings, and it is suggested that an annual need figure of 1,989 dwellings may be more realistic, after making adjustments for demand and supply factors.

49. Part C of the 2012 SHMA approaches the issue of affordable housing from a different standpoint. A *Long-Term Balancing the Housing Market* [LTBHM] model takes a range of overall household growth projections for Birmingham over the 20-year BDP period. These are then distributed across different housing sizes and tenures according to suitability and affordability. On this basis, in the SHMA's "default" demographic scenario (based on the DCLG

[18] See EXAM 90, para 3.44.
[19] PPG, 2a-016-20140306
[20] See DCLG, *Strategic Housing Market Assessments Practice Guidance, Version 2,* 2007, Chapter 5.

2008-based household projections), the affordable housing requirement would amount to 38% of total household growth over the Plan period (30,300 out of a total growth figure of 80,200). At the other end of the range, a scenario based on the ONS 2010-based population projections – the latest comparable data then available – shows total household growth of 105,200 and affordable housing need at 30% of that figure.

50. Neither the 2012 SHMA itself nor the *Supplementary Report* expressly addresses the question of which approach should be preferred. While the SHMA Part A methodology is very similar to that advocated in the *Housing and economic needs assessment* section of the PPG (which postdates the SHMA), the annual requirements derived from it apply only to a five-year period. Since they include both existing (as at 2012) and newly-arising need, they cannot simply be extrapolated over the full BDP period.

51. The LTBHM model used in Part C, on the other hand, covers the full 2011-31 period. While it does not directly follow the PPG methodology, it nonetheless addresses the same questions of current and newly-arising need and the availability of existing stock to meet that need. Moreover, it produces reasonably consistent results in respect of affordable housing need over a wide range of demographic scenarios. The inverse relationship between the high- and low-growth scenarios, in respect of the proportion of affordable housing required, is convincingly explained by reference to levels of out-migration from the city. However, none of the SHMA Part C scenarios results in an affordable housing need share higher than 38%. Hence that represents the maximum likely level of affordable housing need.

52. For these reasons, I find that the *Supplementary Report* is justified in calculating affordable housing need on the basis that it represents a 38% share of overall housing need over the BDP period. The same calculation method was used in the *Housing Targets 2011-2031 Technical Paper,* September 2013 [H1], and no substantial evidence to challenge its use in either document was brought forward. Based on the objectively-assessed need for 89,000 dwellings overall, therefore, Birmingham's objectively-assessed need for affordable housing is about 33,800 dwellings. The remaining need, of approximately 55,200 dwellings, is for market housing.

53. The PPG advises that total affordable housing need should be considered in the context of its likely delivery by market-led housing development. An increase in the Local Plan's total housing requirement should be considered where it could help to meet the need for affordable housing[21]. This point is dealt with in the section below headed *Meeting affordable housing need*.

Meeting the objectively-assessed housing needs

Meeting the overall need for housing – capacity within Birmingham

54. In seeking to meet the objectively-assessed need for housing, the Council's *Strategic Housing Land Availability Assessment*, published in September 2014 [2014 SHLAA, EXAM 6], demonstrates capacity for 46,830 dwellings over the rest of the BDP period. Adding completions (4,159) and long-term vacant

[21] PPG, 2a-029-20140306

dwellings brought back into use (793) since 2011 gives a total supply of around 51,800 dwellings over the Plan period as a whole. About 4,500 of these dwellings are on sites under construction and a further 11,000 have full or outline planning permission. Because the subsequent SHLAA was published in November 2015, it was too late to be considered by examination participants, but the overall position it presents is very similar.

55. The SHLAA is prepared on an annual cycle, which includes a "call for sites" and a robust process of reassessment of existing sites, involving some 1,200 site visits. Individual sites are identified as being available for development within five, 10 or 15 years, according to their circumstances. Site capacities are based wherever possible on extant planning permissions or direct evidence from their promoter; elsewhere they are based on standard densities but with appropriate adjustments made to take account of site-specific constraints. For the larger[22] housing sites the evidence in the 2014 SHLAA is supported by the Council's *Site Delivery Plan* [EXAM 25], which provides a more in-depth analysis of the factors affecting their deliverability.

56. Having sought further explanation about the assessments of a number of individual sites, I am satisfied that the SHLAA methodology is sound, and that it provides an accurate account of the sites that are either deliverable within five years or developable in later years, in accordance with NPPF footnotes 11 and 12[23]. It is true that a high proportion of the identified sites are relatively small, and that most of the larger sites are located in the inner-city wards (particularly Ladywood and Nechells), rather than the higher-value suburbs. But that is because Birmingham is heavily built-up, with most development opportunities to be found on brownfield land in the older parts of the city. Based on development trends since 2000, in a wide range of economic conditions, there is a realistic prospect that the identified sites will be brought forward for development by the end of the Plan period.

57. Student households are included in the DCLG household projections. The sites identified in the SHLAA include sites with planning permission for just over 4,000 bedspaces in purpose-built student cluster flats and studio apartments. This level of provision is justified by evidence from the city's universities on the current demand from students[24], and DCLG have confirmed that such accommodation should be included in the monitoring of housing supply[25].

58. Alongside the identified sites, the 2014 SHLAA includes a windfall allowance for some 7,600 dwellings over the remainder of the BDP period. This figure is based on an annual allowance that is initially set some way below the lowest windfall completion rates of recent years, and then increases gradually over the period to reflect the expected recovery in the housing market. Nonetheless, the maximum annual allowance is less than a quarter of the highest level experienced before the 2008 financial crisis. The calculation of the allowance specifically excludes development of residential gardens. I am

[22] Sites for more than 100 dwellings in the city centre and 50 dwellings elsewhere
[23] The identified sites include two Green Belt sites which are allocated for around 5,000 and 350 dwellings respectively in the Plan period. The justification for those allocations, and for not allocating other Green Belt or greenfield sites, is considered under Issue E.
[24] See EXAM 6, paras 6.7-6.13.
[25] See EXAM 6, Appendix 3.

satisfied therefore that the overall windfall allowance is based on sound evidence and is realistic and achievable. Indeed, in practice it is likely to be exceeded.

59. Finally, the 2014 SHLAA makes a modest allowance of 800 additional dwellings from the Council's Empty Homes Strategy. There is clear evidence that the Strategy has succeeded in bringing well over 200 long-term empty homes back into use each year since 2011. The allowance of 800 assumes that 200 more will have been brought back into use each year until 2018, when current funding for the Strategy runs out. That is a realistic assumption.

60. Thus the figure of around 51,800 dwellings, derived from the 2014 SHLAA, represents a sound assessment of the potential overall housing land supply during the BDP period.

Meeting the overall need for housing – addressing the shortfall

61. Clearly, the supply of housing land in Birmingham is a long way short of meeting the objectively-assessed need for about 89,000 dwellings. Nonetheless, it will be clear from my findings elsewhere in this report that, on the available evidence, the allocation of additional sites within the city boundaries would not be justified. Accordingly, while submitted policy PG1 makes provision for the development of 51,100 additional homes[26], the reasoned justification makes it clear that the Council will work with neighbouring authorities to secure additional provision to meet the overall need. That is not a new situation: the evidence shows that for many years newly-arising housing need in Birmingham has outstripped the capacity of the city to meet it, and so a substantial proportion of Birmingham's need has been met in other parts of the West Midlands.

62. The principal mechanism for achieving such provision outside the BCC area is now the duty to co-operate, introduced into the 2004 Act by the *Localism Act 2011*[27]. In my IF I explained why I did not accept the argument put to me, that in order for the BDP to be found sound it would have to set out where the shortfall of housing provision in the city to meet Birmingham's needs would be met, by reference to specific apportionments in other LPA areas. I noted that it is not within my remit, in examining the BDP, to specify how much land should be allocated for development in any other LPA area. That would require a separate Local Plan, or plan review, examination in each case.

63. Moreover, it would be inconsistent with the NPPF's emphasis on the need to have up-to-date plans in place, to delay the adoption of the BDP until every other relevant council in the HMA had reviewed their Local Plan to provide for the Birmingham shortfall – a process that could take several years and would delay necessary housing development coming forward within the city itself. In particular, it would delay the release from the Green Belt of the strategic urban extension [SUE] site at Langley (considered under Issue E below).

[26] The PG1 figure of 51,100 dwellings derives from the *Housing Targets Technical Paper*, which in turn is based on the 2012 SHLAA. Given the marginal difference of only 700 dwellings from the currently-assessed capacity, it is unnecessary to modify the policy figure. Such marginal fluctuations are to be expected in annual capacity assessments.
[27] As s33A of the 2004 Act

64. NPPF paragraph 47 makes it clear that LPAs are to ensure that their Local Plan meets the full need for housing in the HMA, as far as is consistent with the NPPF's policies, while paragraph 179 advises that joint working should enable LPAs to meet development needs that cannot wholly be met in their own areas. Thus there is a clear policy injunction on other LPAs to co-operate in allocating land to meet the shortfall in Birmingham. Adoption of the BDP will provide certainty as to the scale of the shortfall and the requirement for it to be met elsewhere in the Greater Birmingham HMA.

65. In my IF, I described the process that is being followed in order to arrive at an agreed distribution of the shortfall to other authorities in the HMA. Since then, the latest stage in the process has been the publication in August 2015 of the *SHNS Stage 3* report, which identifies a series of options for meeting the shortfall. The bodies who commissioned the report (GBSLEP and the BCAs) together cover 13 LPAs across the West Midlands. The next stage is for the GBSLEP itself to assess the options and decide on a preferred option to take forward into the next iteration of its *Spatial Plan for Recovery and Growth* [SPRG].

66. Alongside this, so far seven LPAs in the HMA have committed themselves to a review of their adopted or emerging Local Plans, should this be necessary to address Birmingham's shortfall[28]. All this is clear evidence of effective co-operation between LPAs with the aim of meeting the housing needs of Birmingham and the HMA as a whole. While the SPRG is a non-statutory document, both its preferred option and the evidence underpinning it are likely to be material considerations of significant weight when Local Plans are reviewed.

67. Nonetheless, I consider that the duty to co-operate places a particular responsibility on the Council to ensure, as far as they are able to, that appropriate contributions towards Birmingham's housing needs are made when other LPAs draw up or review their Local Plans. Thus **MM2** is necessary to spell out in policy PG1 itself the full scale of objectively-assessed need, including the need for affordable housing, and that provision needs to be made elsewhere in the Greater Birmingham HMA, through the duty to co-operate, to meet the shortfall within the Plan period. Alongside that, **MM3** is required in order to explain in the policy's reasoned justification the mechanism for achieving that objective. These modifications are necessary to ensure that the BDP is effective.

68. For the same reasons, new policy TP47 is inserted by **MM84**. It puts the onus on the Council, both to monitor housing land supply and delivery in the city and in other LPA areas, and to take an active role in promoting appropriate provision in Local Plans across the HMA to meet the shortfall in Birmingham. Those requirements are consistent with the duty to co-operate on cross-boundary strategic matters. In my view, they provide an adequate mechanism to secure provision to meet Birmingham's full housing needs over the Plan period. Should they nonetheless fail to bring forward sufficient housing, either within Birmingham or in the wider HMA, there is a fall-back

[28] The seven are Bromsgrove, Cannock Chase, Lichfield, North Warwickshire, Redditch, Solihull, and Stratford-on-Avon.

provision in the policy requiring a full or partial review of the BDP to be undertaken as necessary.

69. As published for consultation, the requirements of MM84 were set out as part of the reasoned justification, but respondents made the valid point that they ought to have policy status in view of their importance to the achievement of the Plan's strategy. The Council will need to insert appropriate introductory text to the policy as an additional modification. In the light of consultation, the policy requirements themselves, and the monitoring indicators that would trigger them, have been refined in order to ensure that they are sufficiently precise and effective.

70. However, I see no need to change the period of three years (following adoption of the BDP) within which the new policy expects relevant Councils to have submitted a replacement or revised Local Plan for examination. That is a realistic period to allow for the SPRG to be finalised and for Plan reviews to be brought forward. Modified policy PG1 makes it clear that provision should be made within the HMA to meet the Birmingham shortfall in full by the end of the Plan period.

71. While the evidence at this examination demonstrates that around 51,000 dwellings is the maximum that can be provided in the city over the Plan period, it cannot be assumed that the same circumstances will necessarily prevail when any such review takes place. Thus any Plan review that may be required under the terms of the new policy will provide a genuine opportunity to reassess the capacity for housing provision in the city in the light of contemporary evidence. Having said that, setting a fixed date to review the BDP, independent of any evidence of a failure in provision, is unnecessary in the light of national guidance that most Local Plans are likely to require updating in whole or in part at least every five years[29].

72. Nor is it necessary for the strategic options set out in *SHNS Stage 3* to be subject to SA, in order to meet the legal requirements for SA of the BDP. Clearly it would be sensible for SA of the strategic options to be carried out, as envisaged in my IF, as part of the process of arriving at a preferred option for distributing the housing shortfall across the HMA. But the effects of implementing the BDP itself arise from the policies and development proposals it contains, not from any development proposals that may be put forward in other Local Plans.

73. A number of responses to the MM consultation drew attention to the alternative method being adopted in the Coventry and Warwickshire HMA for meeting the shortfall in housing land supply in Coventry. A Memorandum of Understanding [MoU] has been drawn up, setting out the distribution of the shortfall to the other LPAs in the HMA, and I understand that all but one have signed it. It is suggested that I should not find the BDP sound until a similar process has been carried out for the Greater Birmingham HMA.

74. Evidently I was not party to the discussions that led to the production of the Coventry and Warwickshire MoU, nor am I aware of all the evidence that has

[29] PPG, 12-007-20140306

been presented to Local Plan examinations in that HMA. The MoU appears to be a useful means of securing agreement from LPAs to a proposed distribution of the housing shortfall, but the necessary first step must be to define the proposed distribution to each LPA. However that was done in Coventry and Warwickshire, the method being followed in the different and more complex circumstances of the Greater Birmingham HMA is the GBSLEP- and BCA-led process described above. No robust alternative method of arriving at an evidence-based distribution of the shortfall has been put before me.

75. It is understandable that there should be a desire to see more rapid progress, particularly as publication of the *SHNS Stage 3 Report* occurred some six months later than anticipated in my IF. However, I do not see how the NPPF objective of boosting housing supply would be assisted by delaying adoption of the BDP until the SPRG is finalised, and a MoU has been drawn up and signed by all (or most) of the 14 Greater Birmingham LPAs. There is no convincing evidence to show how taking that stance would speed up progress on the SPRG, or help bring forward Local Plan reviews across the HMA. In the meantime, land for over 5,000 dwellings in the Birmingham Green Belt would remain unreleased.

76. In short, delaying adoption of the BDP at this point would hinder rather than help achieve the goal of meeting housing need.

Meeting affordable housing need

77. Applying the 38% affordable housing share to the overall BDP housing requirement for 51,100 dwellings gives an affordable housing requirement of some 19,400 dwellings. The Council's *Housing Targets 2011-31 Technical Paper*, September 2013 [H1] indicates that over the BDP period affordable housing providers, including the Birmingham Municipal Housing Trust, registered social landlords and housing associations, are likely to provide about 9,000 new affordable dwellings net (after allowing for the demolition of around 5,000 older or unsuitable dwellings) from their own development programmes. That is a reasonable estimate, having regard to recent trends.

78. In addition to this direct provision, policy TP30 seeks a 35% affordable housing share from all other developments of 15 or more dwellings[30], subject to viability. Viability assessments carried out in preparation for the introduction of the Community Infrastructure Levy [CIL][31] demonstrated that a substantial majority of typical residential schemes (70%) would remain viable with affordable housing provision at this level, and with CIL charges set at £115 per square metre [psm] in high-value areas and £55 in low-value areas. In the event, however, the Council have chosen to set the high-value CIL rate at £69 psm and the low-value rate at zero, with the express intention of maintaining viability and maximising affordable housing content[32].

79. On the basis of this evidence, I am confident that setting the policy requirement for affordable housing on applicable sites at 35% is reasonable.

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[30] For the evidence supporting the threshold of 15 dwellings see H6, section 10.
[31] GVA, *CIL Economic Viability Assessment*, October 2012 [IMP4]
[32] Inspector's report on the examination of the draft BCC CIL charging schedule [EXAM 153], paras 53 & 62

On individual sites where it is shown that 35% affordable housing would render a development unviable, policy TP30 allows for a lower level of provision to be made. **MM66** amends the policy in order to make it clear that the 35% requirement applies to all new use-class C3 developments over the 15-dwelling threshold, and to clarify the factors that will be taken into account when considering relaxation of the requirement on grounds of viability.

80. Retirement housing schemes vary widely in character, from those that are little different from mainstream housing, to those providing substantial extra care for residents. It is therefore difficult to make a general assessment of the effects of policy TP30 on their viability. However, many schemes providing higher levels of care will fall into use class C2, and so will be exempt from the policy's requirements. The evidence submitted to the Birmingham Community Infrastructure Levy [CIL] examination suggested that retirement housing in the C3 use class would display similar overall viability characteristics to conventional housing schemes[33]. Moreover, policy TP30 allows for specific viability issues to be considered at the development management stage. Consequently, excluding Class C3 retirement housing from the policy's provisions is unnecessary to ensure the viability of the Plan.

81. The *Technical Paper* estimates that policy TP30 would deliver about 10,500 affordable homes over the Plan period, based on the proportion of sites over the 15-dwelling threshold identified in the then-current 2012 SHLAA. From my own assessment of the 2013 and 2014 SHLAAs, I consider this to be a cautious estimate. In addition, it is reasonable to assume that affordable housing would be provided on most windfall sites above the threshold. Thus, when the direct provision of 9,000 dwellings is also taken into account, there is a very good prospect that the affordable housing requirement for 19,400 dwellings within Birmingham will be met. Indeed, evidence from recent SHLAAs indicates that it may be exceeded.

82. Given the lack of available sites to provide more than about 51,000 new dwellings overall in the BCC area, the total BDP housing requirement cannot be raised to help to meet more of the need for affordable housing, as is suggested in the PPG. Consequently, particular attention will need to be paid to ensuring that the balance of affordable housing need is met from development outside the city, during the ongoing process of identifying sites elsewhere in the HMA to meet the Birmingham shortfall. **MM84** amends the Plan's monitoring indicators accordingly. As part of that process, the Council will need to carry out regular reviews of likely affordable housing delivery from sites within the city, using the latest available evidence, so that all parties have the best possible understanding of the amount of affordable housing that needs to be provided on sites in other LPA areas.

The housing trajectory and the five-year housing land supply

83. As submitted, policy TP28 set out a stepped trajectory for the delivery of the overall housing requirement. Annual average housing delivery would rise in four steps from 1,300 dwellings a year (dpa) in the early years of the BDP period, to 3,090 dpa from 2021 onwards. However, that trajectory appeared

[33] See EXAM 153, para 62.

inconsistent with evidence in the 2014 SHLAA about the rate at which housing sites would come forward for development.

84. Accordingly, **MM62** sets out a substantially revised delivery trajectory. The modification reduces the number of steps to three and greatly increases the proportion of housing coming forward earlier in the Plan period. **MM63** adds the important qualification that the annual provision rates in the trajectory are not ceilings and that higher rates of provision will be encouraged wherever possible.

85. Over the first four years of the Plan period, 2011-15, the modified trajectory broadly reflects the actual amount of housing that has been developed. There is then a very substantial step-up in the annual rate, from 1,650 to 2,500, for the three years 2015-18. This reflects improving conditions in the housing market and the consequent uplift in expected completions, as evidenced in the 2014 SHLAA. From 2018 and for the rest of the Plan period there is a further step-up in the delivery trajectory to 2,850 dpa, largely accounted for by the output from the Langley SUE which is expected to reach maximum annual output by that date.

86. An alternative approach would have been to set the delivery trajectory as a "flat" annual average of the overall housing requirement across the whole Plan period, ie 2,555 dpa. However, that would not reflect the actual pattern of need, which the evidence demonstrates is likely to increase more rapidly after 2021 than before. Moreover, that alternative approach would be unrealistic, in that it would impose a retrospective requirement for the years 2011-15 that could not be met simply by increasing the supply of housing land from 2015 onwards.

87. In other areas that do not face similar constraints on supply, it might well be possible to make up the resulting "shortfall" in provision between 2011 and 2015 quickly, by allocating additional sites for development in the next five years (under what is known as the *Sedgefield method*). That option does not exist in Birmingham, where all the available sources of supply, and their likely timescale for delivery, have been accounted for in the modified policy TP28 trajectory.

88. For these reasons I consider that the housing delivery trajectory set out in policy TP28, as amended by MM62 & MM63, is sound. It will facilitate the most rapid possible provision of housing within the city to meet the objectively-assessed needs, and will promote the NPPF's goal of boosting significantly the supply of housing immediately upon adoption.

89. The modified TP28 trajectory will be used as the basis for calculating the five-year supply of housing land in accordance with NPPF paragraph 47. On that basis, EXAM 161 demonstrates that a five-year supply of housing land will be available when the Plan is adopted, and can be maintained. The figures for 2015-20 are a five-year requirement of 13,860 dwellings, and a deliverable five-year supply of 14,536 dwellings (5.2 years' supply). The five-year supply ratio increases in subsequent years, up to 5.5 years from 2018 onwards. Additional "headroom" is likely to be provided by further windfalls coming forward in line with historic trends, but not included in the cautious assessment made in the SHLAA.

90. EXAM 164 provides a later iteration of the five-year supply position, based on the 2015 SHLAA. This envisages rather more housing coming forward between 2015 and 2017 and somewhat less in future years. Although the overall total is very similar to that envisaged in EXAM 161, the effect is to boost the five-year supply ratio in the first two years and to reduce it thereafter. While the supply ratio from 2018 onwards appears very tight, at 5.1 or 5.2 years, the figures in the table do not take account of the fact that, in practice, the forecast excess of supply over requirements in the early years will be rolled forward to inflate the supply ratio in future years. As with EXAM 161, additional windfalls are also likely to come forward.

91. It is also valid to point out that in circumstances where housing land supply is constrained, as in Birmingham, it is the available supply that, in effect, dictates the overall housing requirement for the city. This means that a fairly tight five-year supply ratio is unavoidable if the objective of boosting housing provision is to be pursued. It would make no sense, for example, to set artificially low targets in the early years in order to increase the supply ratio later on. The housing trajectory must be set to encourage the maximum possible output in each year of the Plan period, as MM62 does for the BDP.

92. The five-year supply calculations assume that a 5% buffer is required, on the basis that there has not been a record of persistent under-delivery of housing in Birmingham. That is appropriate, given that all the applicable pre-BDP housing targets[34] for the period since 2001 were comfortably exceeded, notwithstanding a downturn in provision after the 2008 financial crisis.

Specific policy requirements for new housing

93. Policies TP26, TP27 and TP29 to TP32 are concerned with the quality and sustainability of housing development. A number of modifications are necessary to ensure that they are effective and consistent with national policy.

94. Accordingly, **MM60 & MM61** amend TP26 and TP27 to ensure that they take adequate account of watercourses and flood prevention requirements, and to clarify that necessary infrastructure should be put in place before the new housing for which it is required. **MM64** adds market signals and local housing market trends to the list of factors in policy TP29 that should be taken into account when deciding on the mix of housing types and sizes in any individual scheme. **MM65** amends the reasoned justification to recognise the role of the new-build private rented sector in overall housing provision, and the particular characteristics that must be taken into account when considering planning applications.

95. Policy TP29 sets out target densities for residential development in the city centre, in areas well served by public transport, and elsewhere[35]. Given the substantial shortfall in housing land in Birmingham overall, it is sensible to seek to maximise the yield from each development site, and there is no clear evidence to support the claim that a minimum target density of 40dph is

[34] Targets were set in both the UDP and the *West Midlands Regional Spatial Strategy*. The latter was revoked in 2012.

[35] These do not apply to the Langley SUE, for which specific density requirements are contained in modified policy GA5 (see Matter E).

incompatible with the provision of family or specialist housing. Nonetheless, since the existing monitoring evidence is not comprehensive, it would be beneficial for the densities actually achieved in future developments to be carefully monitored against the target densities[36]. If this monitoring shows it to be necessary, the latter should be reassessed in the next review of the Plan.

96. While policy TP29 allows scope for variation from the target densities, the circumstances in which lower densities would be appropriate need further definition: this is provided by **MM64**. **MM67 & MM68** respectively rectify an omission in the policy TP31 list of existing housing areas that will be priorities for regeneration efforts, and clarify the policy TP32 criteria for design and layout of new student accommodation. These changes are necessary for effectiveness.

Conclusion on Issue B

97. Drawing all the above points together, I conclude on Issue B that, subject to the necessary main modifications I have recommended in the interests of soundness, the BDP appropriately identifies housing needs and sets out effective measures to meet them in accordance with national policy.

Issue C – *Does the BDP make adequate and appropriate provision to meet the accommodation needs of gypsies, travellers and travelling showpeople?*

98. Gypsy and traveller accommodation needs in Birmingham are the subject of the recent *Birmingham Gypsy, Traveller and Travelling Showpeople Accommodation Assessment*, May 2014 [H5]. It identified a need for eight additional Gypsy and Traveller pitches over the Plan period, of which four would be required in the five years 2014-19. A Gypsy and Traveller transit site of between 10 and 15 pitches is also required. The Travelling Showpeople requirement for two additional plots over the Plan period can be met at the existing yard on Shipway Road. There is no evidence to cast doubt on the reliability of this assessment, nor evidence of unmet needs from other areas that would affect the requirement for provision in Birmingham.

99. As submitted, the Plan made no provision to meet the identified five-year need for Gypsy and Traveller pitches, and so was not compliant with national policy in *Planning Policy for Traveller Sites* [PPTS]. However, this is rectified by **MM69** to policy TP33, allocating sites for Gypsy and Traveller accommodation at Hubert St / Aston Brook St East and Rupert St / Proctor St.

100. Both sites are Council-owned and located close to main traffic routes. Having visited them I consider that both are suitable for their intended use, with no substantial evidence to show that this would be prevented by land contamination. The latter site is currently in use as a private car park. It had 25 vehicles on site and was about one-third full when I visited on a weekday afternoon. This is an industrial area and there was very heavy parking on the

[36] MM84 will bring residential density monitoring categories into line with the target densities in policy TP29: see Issue M.

streets in the immediate vicinity. However, there was ample, free on-street parking space available a short walk away, in Avenue Road and Chester St. There is therefore no reason to suppose that the closure of the car park will lead to significant additional congestion in the area.

101. The allocated sites are of sufficient size to provide at least a five-year supply of permanent pitches and will meet the full identified need for transit pitches. In my view there is a very good prospect that they will come forward in the near future. It may also be possible to accommodate the remaining Plan-period requirement for permanent pitches on these sites. If not, the City Council are committed to seeking an additional site within a broad area of search comprising the south-west quadrant of the city's urban area. That area has been chosen having regard to the location of existing unauthorised encampments. **MM70** ensures that these provisions, also needed for compliance with PPTS, are set out clearly in the Plan.

102. In accordance with PPTS, policy TP33 also includes criteria to guide decision-making on other planning applications for traveller accommodation that may come forward. As submitted, some of these were excessively onerous, imposing disproportionate requirements on traveller site proposals compared with what would be expected of other residential developments. Those excessive requirements are deleted or amended by **MM69**, while **MM70** amends the reasoned justification to explain the purpose of the criteria and to clarify the policy approach to traveller site proposals in the Green Belt so as to reflect national guidance. In view of the criterion in policy PG3 requiring new developments to create safe environments that design out crime, I see no need in TP33 for a specific requirement to consult the police on planning applications.

103. Subject to the identified modifications which are necessary for soundness, the BDP makes adequate and appropriate provision to meet the accommodation needs of gypsies, travellers and travelling showpeople.

Issue D – *Does the BDP make adequate and appropriate provision to meet employment development needs?*

Need for office floorspace and employment land

104. Warwick Economics and Development's *Employment Land and Office Targets Study* (2013) [ELOTS, EMP4] provides the basis for the BDP's employment development requirements. The Study examines the policy, economic, demographic and property market factors influencing future employment development in Birmingham. Its "most likely" estimates of demand for land and floorspace over the Plan period are derived by integrating a range of estimates based on growth projections and past completion rates. An "accelerated development scenario" is also assessed, and a small adjustment is made to take account of the likely economic impact of HS2 Phase One.

105. This is a robust methodology leading to realistic demand estimates. In my view it is to be preferred to the alternative approach of Regeneris[37], which is based on past take-up rates alone and so may not adequately allow for future growth. While there is merit in the argument that a forecast based purely on gross value added would be likely to overstate future demand, ELOTS avoids this danger through its integrated approach. The ELOTS estimates were not challenged by any other comparable evidence.

106. Policy PG1's office floorspace requirement figure of 745,000sqm is close to the mid-point between the "most likely" and "potential maximum" figures (the latter based on the "accelerated development scenario") and reflects the ELOTS recommendations. Also as recommended by ELOTS, an overall employment land requirement figure of 407ha over the Plan period (comprising 320ha for industrial uses and 87ha for storage and distribution) reflects the "most likely" scenario, adjusted to take account of HS2 effects.

Employment land categories

107. ELOTS further differentiates this employment land requirement into four categories: Regional Investment Sites [RIS], and Best Urban, Good Urban and Other Urban land. It says that the past property market in Birmingham suggests that around 11% of demand, some 45ha, could be required on larger, Regional Investment Sites between 2012 and 2031. On the same basis, about 224ha of Best Urban Land would be needed, 118ha of Good Urban Land, and 20ha of Other Urban Land[38].

108. The categories are defined in BDP policies TP16 and TP17. It may well be that, especially from the point of view of potential occupiers, there is very little functional difference between the RIS and Best Urban categories, as both are intended to provide large, high-quality sites attractive to national and international investors (whereas the less valuable Good Urban and Other Urban land is appropriately intended mainly for local companies).

109. But whatever may be the origins of the RIS concept, the evidence makes it clear that a continuing supply of large, high-quality sites (whether designated as RIS or Best Urban) is essential if Birmingham is to meet locational requirements for future business investment and expansion[39]. The key policy distinction made by the BDP is that warehousing uses are generally permitted on Best Urban sites, but only permitted on RIS where they are ancillary to other employment uses.

110. There are two RIS in Birmingham, at Aston and Longbridge. Each is designated in an adopted *Area Action Plan* [AAP, G2, G5], which sets out a range of regeneration objectives for the area it covers. Aston is a relatively disadvantaged inner-city area while Longbridge has experienced large-scale job losses with the closure of the MG Rover car plant in 2005. In both areas, providing substantial job opportunities both to meet existing skills and to

[37] Regeneris Consulting, *BDP Representations: Longbridge RIS*, paras 3.27-3.32 – Appendix 1 to the Matter J Hearing Statement of Planning Prospects
[38] EMP4, paras 5.16, 5.27 & Table 5.12
[39] See, for example, EMP3, Figure 3.5 and para 3.13.

develop the local skills base further are important social as well as economic objectives.

111. These particular local circumstances justify the requirement in policy TP17 for B1 and B2 uses on the RIS, subject to **MM49 & MM50**, which replace an unclear and ineffective policy reference to "high-quality" uses with a fuller explanation in the reasoned justification. Through the AAPs, the restriction on warehousing has already been in force for several years and there is no substantial evidence to indicate that it has significantly held back development on either RIS.

112. Nonetheless, under Issue F below I consider the status of the Longbridge AAP, which is over six years old and pre-dates the NPPF. Within the scope of policy TP17, any future review of the AAP should re-examine the specific use-class and employment type floorspace requirements set out in its Proposal RIS1, to ensure that they reflect current circumstances and national policy. In particular, the AAP Review will be the place to consider the continuing relevance of the technology park concept which underpins its RIS proposals. The need for such consideration is underlined by a 2010 appeal decision[40] which found no justification for the Council's proposed condition seeking to limit the specific uses to which an office development on the RIS could be put.

The reservoir approach

113. A large proportion of the completed employment development in Birmingham over the 10 years 2003-13 – some 11ha a year on average – was on previously-developed land[41]. While many of the better sites have now been taken up, there is still potential for further recycling of previously-developed land, particularly for Good Urban and Other Urban category developments. Thus policy PG1 expresses the employment land requirement as a rolling "minimum five-year reservoir" figure of 96ha, excluding RIS. Policy TP16 breaks down the reservoir figure by category. Over the whole Plan period, and also taking into account the 45ha RIS requirement, the combined five-year reservoir figures equate to the total of 407ha recommended by ELOTS.

114. This flexible "reservoir" approach allows for peaks and troughs in the demand for employment land. It is appropriate in Birmingham in view of the substantial opportunities for land recycling. However, careful monitoring of planning permissions and site availability will be necessary to ensure that the reservoir is maintained.

115. Given that sites will need to be found outside the city boundary for around 40% of Birmingham's housing needs, it was suggested that other LPAs in the HMA should make some employment allocations outside the city to complement the "displaced" housing. That is principally a matter for the LPAs concerned. However it would be a mistake, in my view, to reduce the BDP's evidence-based office and employment land requirements in response to the shortage of available land for housing. Restricting the availability of land for economic development would be likely to have negative consequences not just

[40] Ref APP/P4605/A/09/2115711 – Appendix 2 to the Matter J Hearing Statement of Planning Prospects
[41] EMP4, para 7.2

for Birmingham but also for the wider region, given the leading role the city plays in the West Midlands economy.

Office floorspace and employment land provision

116. Policy TP20 allocates the vast majority of the Plan's office floorspace requirement, 700,000sqm, to the City Centre, including the designated City Centre Enterprise Zone, and the remainder to Sutton Coldfield Sub-Regional Centre and the three District Growth Points. There is also scope for some limited additional provision to come forward at other District and Local Centres. The distribution reflects the relative accessibility of these locations as well as site availability, with land for some 745,000sqm being available in the City Centre, according to ELOTS[42]. There was no substantial evidence to cast doubt on the capacity of the various areas to meet these allocations.

117. The RIS employment land requirement is effectively met by the allocations at Aston and Longbridge. In the Best Urban category, currently-available development land amounts to about 43ha, with a further potential 24ha identified as not currently-available[43]. The currently-available supply is therefore some way below the minimum five-year reservoir figure of 60ha. At the same time, total identified supply over the whole Plan period (made up of completions, currently- and not currently-available land) is only about 84ha against a requirement of 224ha. Moreover, some 29ha of the currently-available supply is concentrated at one location, The Hub at Witton. All the other currently-available sites are less than 3ha in size.

118. The Best Urban category, by area, accounts for more than half the overall employment land requirement identified by ELOTS. As the principal source of land for inward investment into Birmingham it is very important to the city's future prosperity. Thus it is vital that the BDP secures an adequate supply.

119. The extensive, largely disused railway land at Washwood Heath was previously identified in the Best Urban category. But most of it is now very unlikely to be available for other employment development in view of its protection under the *HS2 Phase One Safeguarding Directions* as the proposed site for the HS2 rolling-stock maintenance depot. Notwithstanding the representations that have been made to Parliament on this matter, on current evidence it would be imprudent to place reliance on the land becoming available through cancellation of the HS2 project or location of the maintenance depot elsewhere. However, it is appropriate that the land should retain its current designation as a Core Employment Area for as long as this possibility remains.

120. HS2 are committed to minimising land-take at Washwood Heath and returning the residual land to the market as early as possible. However this appears unlikely to happen before the later 2020s, and the 16ha residual area (on current plans) will at most make only a small contribution to the Best Urban supply. Indeed, that contribution may well be cancelled out or even exceeded by the demand for replacement sites for existing businesses displaced by the HS2 developments.

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[42] EMP4, para 7.7

[43] See EXAM 42. These figures were current when the hearing session took place in October 2014.

121. There is another potential source of Best Urban land at the Birmingham Wheels Park site at Bordesley, of about 30ha. However, as I make clear under Issue F below, appropriate alternative premises need to be found for the existing sports facilities on the site before it is redeveloped for employment use. There are also land contamination issues to be resolved. While neither of these factors is insurmountable, they mean that the Wheels site is unlikely to become available in the short term.

122. In the BDP the Council propose the allocation of a strategic employment site at Peddimore, in the Green Belt to the east of the Langley SUE allocation. Even though the site was rejected by the inspector who examined the 2005 UDP, I must consider whether the allocation is sound in the light of present-day circumstances.

123. The 71ha Peddimore site would boost the total identified Best Urban supply from 84ha to 155ha, and so go a long way towards meeting the Plan period requirement of 224ha. Its size and good road transport links are likely to make it attractive to developers, and it would provide local employment opportunities for residents of the SUE and the surrounding neighbourhoods. No other extensive areas of potential Best Urban development land in the city, either greenfield or previously-developed, were brought to my attention.

124. Reference was made to a study of potential large employment sites across the West Midlands, and to proposed developments at Birmingham International Gateway and UK Central, both of which lie outside the BCC area. But I am not in a position to consider whether or not sites outside Birmingham would be suitable for development. Nor would it be acceptable to hold up adoption of the BDP for an indefinite period pending discussions among a wide range of stakeholders on regional priorities for employment development. There is a well-evidenced shortfall of Best Urban land to meet the city's own development needs that should be met as far as possible by this Plan.

125. Consequently I find that the Peddimore allocation is justified in terms of meeting economic development needs. It is required as soon as possible, in order both to overcome the shortfall in the reservoir of currently-available Best Urban land and to contribute to the overall Plan-period requirement. Justification for its allocation in respect of SA and Green Belt policy is considered under Issue E below.

126. Currently-available land in the Good Urban and Other Urban categories amounts to some 21ha and 6ha respectively. The Other Urban five-year reservoir target is met but there is a shortfall of some 10ha against the target for Good Urban land. A further 25ha of not currently-available land is likely to contribute to the supply in future years, and based on past evidence other recycling opportunities are likely to come forward. Nonetheless, the present shortfall is a matter of some concern which will need careful monitoring, and remedial action by the Council should the situation persist.

Other employment policy matters

127. The BDP identifies Core Employment Areas as the focus of Birmingham's industrial activity and the location for some of the city's major employers. Development in these areas is limited by policy TP18 to the B1(b), B1(c), B2

and B8 use classes and *sui generis* uses that are appropriate to industrial locations. All other employment land and premises (apart from the RIS which are covered by policy TP17) are subject to policy TP19, which allows for changes to other uses in defined circumstances.

128. I consider that this approach strikes the right balance between safeguarding those defined areas that are most important to the continuing industrial strength of the city, and applying a more flexible approach in other areas when it can be shown that continuing employment use of a site is inappropriate or unviable. The Policies Map and the relevant illustrative plans are to be altered to take account of recent planning permissions[44] and other significant inconsistencies.

129. Otherwise, there is no strong case at present for altering the boundaries of the designated Core Employment Areas, notwithstanding the occasional presence of non-industrial uses within them. However, it is important that they are kept under regular review to ensure that their continued protection is justified. This is provided for by **MM52**, while **MM51** clarifies the definition of the uses permitted by policy TP18 to ensure its effectiveness.

130. While the evidence clearly indicates that there is a continuing need for large sites, actual take-up will ultimately be determined by demand. Employment development that is otherwise appropriate ought not to be discouraged solely on grounds of size. Thus I would not support the suggestion that there should be a policy preventing the sub-division of RIS and other large employment sites.

131. Policy GA6 specifies that, in common with the Core Employment Areas, development at Peddimore is to be limited to B1(b) & (c), B2 and B8 uses, with 40ha of the site safeguarded for B1(c) and B2 uses only. Both these measures are justified in the light of the overall need for Best Urban land and the balance of need for manufacturing and warehousing established by ELOTS. But the suggestion that B8 use should be prevented on any part of the site, while motivated by an understandable desire to maximise employment opportunities, would make the policy too inflexible. Given the shortage of large Best Urban sites elsewhere in the city, land needs to be made available for B8 development at Peddimore.

132. Policy TP19, as submitted, sought inappropriately to rely on a SPD to define the tests applicable to proposed changes of use: this is rectified by **MM53 & MM54** which embed the tests within the policy itself. The tests themselves, including the marketing requirements, are not unduly onerous in the context of the overall shortfall in the identified supply of employment land. **MM53** also removes the provision which would have required successful applicants for change of use under TP19 to make a financial contribution towards upgrading other nearby employment land. That general requirement would not comply with the statutory limitation on the use of planning obligations set out in the *Community Infrastructure Regulations 2010* (as amended), or the corresponding guidance in NPPF paragraph 204.

[44] Including a residential permission at the Royal College of Defence Medicine, Longbridge, which was issued too late for the Policies Map change to be published alongside the MMs

Conclusion on Issue D

133. In the light of the above points I conclude that, subject to the MMs identified as necessary for soundness, the BDP makes adequate and appropriate provision to meet employment development needs.

Issue E – ***Does the BDP comply with national policy in its approach to the Green Belt? Are the allocations of Green Belt land for a SUE at Langley, employment development at Peddimore, and residential development at Yardley justified and deliverable? Should other Green Belt or greenfield allocations be made?***

The Green Belt policy approach

134. Policy TP10 sets out the BDP's overall approach to development within the Green Belt boundary. Elsewhere in the BDP, alterations to the boundary are proposed in order to allocate for development land at Langley, Peddimore and Yardley that is currently part of the Green Belt. NPPF paragraph 83 advises that such alterations to Green Belt boundaries should only be made in exceptional circumstances. The justification for these particular alterations is considered in the following sections.

135. Policy TP10 also sets out the policy basis for considering future development proposals within the revised Green Belt boundary. As submitted, it is effective and consistent with national policy except in two respects. First, it contains references to "Green Wedges", which might cause confusion by suggesting that this is a policy designation distinct from the rest of the Green Belt. In fact, as was explained at the hearing, it is meant as a purely descriptive term and can be removed without altering the policy's intended meaning. Secondly, the last sentence of the policy needs to be reworded so as to remove any potential for conflict with national Green Belt policy towards outdoor sport and recreational facilities. Subject to **MM41**, which makes the necessary modifications, policy TP10 is sound.

Langley SUE and Peddimore employment allocations

136. The Langley SUE and Peddimore employment allocations under policies GA5 and GA6 are the most controversial proposals in the BDP. Some 6,000 objections were made to them at pre-submission stage, community groups opposing them appeared at several hearing sessions, and the local MP, Andrew Mitchell, also attended one of the hearings to express his views. The reaction is readily understandable, since the two sites occupy a substantial proportion of the remaining Green Belt land within the city boundary. For the most part they are currently in agricultural use, and they are valued by residents of Sutton Coldfield and surrounding areas, particularly for the extensive views of open countryside that they offer, the wildlife they support, and the opportunities to use the public rights of way that cross them.

Pre-submission SA and assessment work ("Stage 1")

137. The Council's decision to allocate the sites at Langley and Peddimore followed a lengthy process of assessment, including SA. The October 2012 BDP *Options Consultation* document [HTY11] was produced in response to the March 2012 publication of the NPPF, with its requirement to meet objectively-assessed needs, and to the publication of Census figures and ONS projections of higher population growth than had been indicated by earlier figures. At the time, the resulting housing need up to 2031 was projected to be between 75,000 and 95,000 dwellings[45], thus encompassing the figure of 89,000 which is now the objectively-assessed level of need.

138. The 2012 Interim SA [HTY14], which was prepared to support HTY11, assessed three strategic options for development. The "do-nothing" Option 1 would have meant keeping development over the BDP period at the same levels as envisaged in the 2010 *Core Strategy Consultation Draft* [HTY7] (including around 45,000 new dwellings). The other two options involved accommodating additional growth within the existing urban area (Option 2), and strategic release of Green Belt land for development (Option 3).

139. Option 2 fared worst by far in the Interim SA. That is unsurprising because among other things it would have involved building on some, and intensifying the use of other, existing green spaces within the built-up area, and significantly increasing the density of development in suburban areas. The option attracted negative scores on four of the eight groups of SA objectives, including natural resources and waste, pollution and economic growth.

140. The results for Options 1 and 3 were rather closer. The appraisal summary found that Option 1 would be environmentally preferable, but would have negative social impacts and, to some extent, negative economic effects. Option 3, on the other hand, would have clear economic benefits, some negative environmental effects (with potential for mitigation of some of these) and mixed social effects.

141. Overall, while it is clear that none of the three options would have exclusively positive effects, HTY14 supports the rational conclusion that Option 3 is the option most consistent with the objective of promoting sustainable development[46]. I therefore find that it provides a sound basis for the Council's decisions to reject the reasonable alternatives of Options 1 and 2, to promote Option 3 (strategic Green Belt release) in HTY11, and to take it forward into the preparation of the pre-submission version of the BDP [SUB1]. A summary of the HTY14 assessment appears in section 3.2 of EXAM 154.

142. The Council also carried out a preliminary assessment of potential strategic Green Belt sites, which is summarised in section 3 and Appendix 1 of the October 2013 *Green Belt Assessment* [PG1]. It found that only four areas of Green Belt land in the city, all lying to the north and east of Sutton Coldfield, were of adequate size and sufficiently free of other constraints to be

[45] HTY14, para 1.1

[46] On the basis that sustainable development has three dimensions: economic, social and environmental (NPPF para 7)

considered for allocation[47]. That is a sound judgment, which was not substantially challenged during the examination. However, while some of the evidence base for PG1 has informed the subsequent SA work, the specific justification given in Stages 2 and 3 of PG1 for choosing the Langley and Peddimore sites for allocation in the BDP has effectively been superseded by the later stages of the SA.

Identified deficiencies in SA and subsequent work undertaken

143. HTY14 thus represented the first of what can be seen as three distinct stages of SA work supporting the eventual allocation of the Langley and Peddimore sites in the 2013 pre-submission version of the BDP [SUB1]. Although I have found that the first stage provided a sound basis for the selection of Option 3 (strategic Green Belt release), in my IF I identified substantial deficiencies in the second and third stages of the SA[48]. The further SA work that was undertaken on the Council's behalf in response, and the consultation that took place thereon, are described in the Introduction above.

144. For the reasons set out below, I consider that the further SA work, which is brought together in the Revised SA report of June 2015 [EXAM 154], has repaired the deficiencies I identified in the earlier SA reports. The judgment in the *Cogent Land* case[49] established that defects in a SA Report may be cured by a later document.

145. In considering EXAM 154 it is important to bear a number of key points in mind. First, as the PPG makes clear, SA is about all three aspects of sustainable development – it *ensures that potential environmental effects are given full consideration alongside social and economic issues*. Secondly, it should be proportionate, focussing on the impacts that are likely to be significant. *It does not need to be done in any more detail, or using more resources, than is considered to be appropriate for the content and level of detail in the Local Plan*. Thirdly, modifications to it *should be considered only where appropriate and proportionate to the level of change being made to the Local Plan*[50].

146. Finally, and perhaps most importantly, the SA report is part of the evidence base supporting the Plan, and is to be examined as such. While it *should help to integrate different areas of evidence and to demonstrate why the proposals in the Local Plan are the most appropriate*[51], SA is not a mathematical formula or a precise science. In deciding which reasonable alternative to pursue at each stage, professional judgment is required both in assessing the likely significant effects of each alternative, and in weighing the relative importance of those effects.

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[47] See HTY11, Appendix, pp4-5, and PG1, Appendix 1.
[48] As reported in the October 2013 SA Report on the Pre-Submission BDP [HTY17].
[49] *Cogent Land LLP v Rochford DC* [2012] EWHC 2542 (Admin): see paras 124-127.
[50] PPG, ID 11-001-20140306, 11-009-20140306 & 11-021-20140306
[51] PPG, ID 11-022-20140306

Strategic option-testing ("Stage 2")

147. My IF identified the following crucial defect in the second stage of the earlier SA work: that it failed to explain why alternative SUE sites were assessed on the basis that what was being sought was a single site for 5,000 dwellings, rather than site(s) for a range of between 5,000 and 10,000 dwellings as stated in HTY11.

148. In response, the March 2015 Revised SA [EXAM 146] contained a new section 5.1: *Testing the Scale of a Sustainable Urban Extension*, comparing the sustainability effects of SUE(s) at two different scales: around 5,000 dwellings, and up to 10,000 dwellings. Then, in the light of comments made during focussed consultation on EXAM 146, section 5.1 in EXAM 154 widened the assessment to include the effects of SUE(s) at two additional scales: 500-3,000 dwellings, and around 7,500 dwellings.

149. This stage of the assessment was carried out on a non-site-specific basis. That was appropriate given that its purpose was to test alternative scales of development at the strategic level. Introducing site-specific factors would have greatly complicated that assessment process. Specific comparisons between potential SUE sites were appropriately carried out at the subsequent, third stage.

150. The results of the second-stage assessment are set out in summary format in Table 5.1 of EXAM 154, with an accompanying commentary. More detailed appraisal tables are in Annex B. On page 79 the report makes it clear that the tables give a score for the performance of each option against each of 28 sustainability objectives, and the meaning of each possible score is clearly set out. The sustainability objectives themselves were developed to reflect the key sustainability issues for Birmingham, in a scoping report [HTY12] which was also the subject of consultation.

151. This is a common, and perfectly reasonable, SA method. It is, however, necessary to recognise that, with this method, the absolute scores given to each option in isolation are somewhat less important than the scoring of the options in relation to one another. In other words, whether (for example) option X is given a positive or negative score against any particular objective is less significant overall than whether its score against that objective is better or worse than option Y's – always provided, of course, that the scoring is done consistently for all options.

152. It is also necessary to recognise that, as indicated in the previous sub-section, the choice of one option over another cannot be arrived at simply by adding up their respective scores and comparing the results. Judgment must be used to determine, for example, whether a better performance against one group of objectives is more or less important than a worse performance against another.

153. In Table 5.1 the 500-3,000 dwelling option scores significantly worse than the rest against the group of objectives concerning sustainable transport and climate change. This is largely because developments of that size are seen as having difficulty, whether individually or in combination, in supporting the level of public transport and other facilities (schools, shops etc) needed to keep

traffic growth within acceptable limits. In view of the substantial public transport investment likely to be needed in a SUE (see below), and the evidence on the scale of development needed to support local facilities including a secondary school[52], that is a justified conclusion.

154. From the commentary accompanying Table 5.1 it is clear that this was the key factor in the decision not to take forward the 500-3,000 dwelling option to the next stage of the SA. Although the option also attracted a worse score than the rest against a number of other objectives, the fact that they are not mentioned in the commentary indicates that they carried less weight in the decision. In my view that was appropriate.

155. The impact of future development on transport patterns and climate change is, self-evidently, a central matter to be considered in the SA. It is also clear from the responses to consultation on the BDP that the traffic impact of the proposed SUE is one of the local residents' main concerns. Against the related sustainability objectives, the 500-3,000 dwelling option justifiably achieved worse scores than any of the others, and on no objective did it achieve a better score than the preferred 5,000-dwelling option. In all these circumstances it was entirely reasonable for the 500-3,000 dwelling option not to be taken forward to Stage 3 of the SA.

156. Even if it is the case that smaller developments could be brought forward more quickly than a 5,000-dwelling SUE, as some responses to consultation suggested, I consider that any short-term benefits of this would be outweighed by the longer-term environmental cost.

157. For the other three options – developments of 5,000, 7,500 and 10,000 dwellings – the assessment results in Table 5.1 are more closely grouped. Economic benefits increase with the size of the development, as do the benefits of housing provision, including affordable housing. Against these objectives, the preferred 5,000-dwelling option scored less well than the others.

158. On the other hand, both bigger options scored significantly worse than the preferred option against the objectives concerned with efficient use of land, built and historic environment, natural landscape and biodiversity. There are also differences between these three options' scores against the objectives dealing with sustainable transport, reducing climate change and air quality.

159. Taking these objectives in turn, I am not convinced of the justification for giving a worse score for efficient use of land to the 7,500- and 10,000-dwelling SUE options than to the smaller options. The Appraisal Criteria table on page B1 of EXAM 154 defines this objective more precisely as *Encourage land use and development that optimises the use of previously-developed land and buildings*. Evidently the amount of greenfield land-take would increase according to the size of the SUE. But in the specific context of Birmingham, where the Plan already contains measures to maximise the use of previously-developed land for development, I have seen no clear evidence to

[52] See EXAM 154, footnote 42, and PG1, para 2.2.3.

demonstrate that any such increase would affect the use of previously-developed land or buildings.

160. However, EXAM 154 is fully justified, in my view, in giving negative scores to the 7,500- and 10,000-dwelling options against the natural landscape and biodiversity objectives. All the potential SUE sites are largely undeveloped and for the most part are used for agriculture or other countryside purposes. In these circumstances it is reasonable to conclude that developing twice as much land, or half as much again, as for the 5,000-dwelling option would have commensurately greater adverse impacts, both on the rural landscape around Sutton Coldfield and on its potential for supporting wildlife.

161. It may well be that the 5,000-dwelling option would also have harmful effects in these respects. But that would not change the fact that the 7,500- and 10,000-dwelling options would have significantly greater adverse impacts, as reflected in their relative scoring.

162. The negative scoring for the two biggest options against the built and historic environment objective is explained in Appendix B as being essentially due to the need for these options to use more land than the preferred 5,000-dwelling option. I find this unconvincing as it implies a linear relationship between the amount of land-take and impact on the historic environment, whereas in reality historic buildings and other assets are likely to be found in discrete locations and can often be safeguarded in new development[53]. Moreover, impact on the built, as distinct from the historic, environment is mainly a matter of design quality. There is no reason why this cannot be achieved in a bigger development as much as in a smaller one. In my view, therefore, no account should be taken of the relative scoring of the options against the built and historic environment objective.

163. Turning to the sustainable transport, reducing climate change and air quality objectives, the differences in the scores given to the 5,000-, 7,500- and 10,000-dwelling options are explained in the section 5.1 commentary and in Annex B by reference to two factors. First, while all three options have the potential to support substantial investment in public transport, there is greater uncertainty over whether this would be adequately achieved by the 7,500-dwelling option.

164. That is because none of the potential SUE sites has been shown to have capacity for as many as 7,500 dwellings and, at this stage of the analysis, it cannot be assumed that all those dwellings would be built on contiguous SUE sites, so that public transport could be provided efficiently and effectively. It has already been established that sites of 3,000 dwellings or less are unlikely to be able to support the necessary level of public transport and other facilities.

165. Secondly, evidence prepared for the Council indicated that maximum delivery from any of the potential SUEs in the Sutton Coldfield area over the Plan period would be around 5,000 dwellings, including affordable housing. It also found that it was unlikely that the market could support more than one such

[53] This is generally confirmed by the site-specific assessment contained in PG6 & PDF-2-1428-30.

development. Hence release of a second SUE site would increase overall delivery of housing by only a relatively small amount. In these circumstances, splitting development between two sites, both delivering at well below full capacity, would create a substantial risk that the necessary investment in public transport and other infrastructure would occur too late, if at all[54].

166. This was a controversial argument which attracted substantial criticism from representors. Reports drew attention to the substantial size of the arc containing the potential SUEs, and to the strong house values and demand for homes at the top end of the market in the Sutton Coldfield area, arguing that there was comfortable market capacity for up to 12,000 dwellings by 2031[55].

167. Empirical evidence on this point was somewhat inconclusive. Delivery of more than 500dpa, and in one case over 1,000dpa, had been achieved in other LPA areas in the past, but in the examples quoted those high output levels appear not to have been sustained for more than three or four years. In 2013, a total of over 11,000 dwellings were planned for delivery over 10 years on several sites in an arc across north Bristol, similar in size to the Sutton Coldfield arc[56]. But I was shown no evidence of what has actually been achieved there so far, or at other cities and towns where high levels of growth are also planned.

168. It was also, fairly, pointed out that the BDP expects around 12,000 dwellings to be delivered during the Plan period in two neighbouring central wards (Ladywood and Nechells). However, transport infrastructure requirements in those established inner-urban areas would be much lower than for a SUE.

169. Having considered all this evidence, it appears to me that the market might support delivery of more than 5,000 dwellings in the Sutton Coldfield area over the Plan period. However, there can be no certainty that it would deliver as many as 10,000, or even 7,500. Thus there is a significant risk that allocating more than one SUE site for development would result in both delivering at well below their potential maximum output. This in turn would risk delaying the investment in public transport, schools and other facilities that is necessary to limit traffic growth at the new developments.

170. For all these reasons, EXAM 154 is justified in drawing attention to the risks to delivery of public transport and other infrastructure associated with both the 7,500 and 10,000-dwelling options. And given that those risks exist, the analysis is correct in concluding that adverse impacts on climate change and air quality are likely to increase with the scale of development. If traffic growth is not effectively contained, it is reasonable to infer that more development will lead to substantially more vehicular emissions.

171. In reaching this view, I have given no weight to the sentences in the Table 5.1 commentary referring to lack of evidence over how traffic from the 7,500- and 10,000-dwelling options could be accommodated on the current road network, and to what is said to be the position of Highways England on this matter. While it is true that the traffic impacts of a 5,000-dwelling development have been assessed in detail using the PRISM model, it would be unfair to take this

[54] See PG3 and PG4.
[55] See PDF-2-1410 and Appendix 1 to Turley's Matter E hearing statement.
[56] See EXAM 70A-C & EXAM 88.

into account in the SA when a similar level of analysis is not available for the other options. To do so would contradict the principle that SA should assess the reasonable alternatives at the same level of detail as the preferred option[57].

172. Representors correctly observed that the September 2013 *Transport Analysis of Green Belt Options* [TA3] proposes a transport infrastructure strategy for developments of up to 10,000 dwellings on each of the potential SUE sites[58]. However, it does not assess in any substantial detail the costs or risks to funding of the strategy. Similar comments apply to the February and March 2014 transport reports produced on behalf of the promoters of Site B[59]. The June 2014 *Birmingham Eastern Fringe Bus Study* [TA21] gives a figure of almost £16 million for bus service infrastructure, including "Sprint" rapid transport services, based on site C alone. This emphasises the importance of ensuring, as far as possible, that risks to infrastructure investment are minimised.

173. Drawing all the above together, it will be evident that on certain specific points I disagree with the findings of EXAM 154. This underlines my earlier point that SA depends in large part on professional judgment to draw conclusions from the available evidence. Nonetheless, I concur with the overall conclusions of the strategic option-testing, as summarised in Table 5.1. The economic and housing provision benefits associated with the 7,500- and 10,000-dwelling SUE options would be outweighed by the negative environmental effects likely to result from developing such substantial areas of greenfield land, especially when account is also taken of the risks to delivery of infrastructure. Those negative effects would be exacerbated by the concentration of suitable strategic sites in one relatively small area of the city.

174. In my view, therefore, this strategic-level option-testing provides a rational basis for the Council's preference for a single SUE site providing around 5,000 dwellings over the Plan period. At that scale of development, the negative environmental impacts of development are capable of being outweighed by the economic and social benefits arising from the substantial increase in housing provision, including affordable housing.

Comparison of potential SUE sites ("Stage 3")

175. The purpose of the third and final stage of the SA work was to provide the basis for determining which particular area of Green Belt should be allocated as a SUE. SA of four reasonable alternative sites for a 5,000-dwelling SUE is reported in section 5.2 of EXAM 154, with a summary in Table 5.1 and detailed assessments for each site in Appendix C.

176. The Peddimore site (Area D) is separated from most of the existing urban area by the dual-carriageway A38, and contains significant archaeological and heritage assets. As a result, it scores worse than the other three sites in respect of sustainable transport, air quality and impact on the built and

[57] PPG, ID 11-018-20140306
[58] The capacity of each SUE site was subsequently refined in PG3.
[59] PDF-2-1417 & 1426

historic environment. I concur with that assessment and with the reasons given in the commentary for rejecting Area D as a potential SUE site.

177. Areas A (Hill Wood) and B (land west of M6 Toll) are judged to have negative impacts on natural landscape, biodiversity and (for Area A only) air quality, whereas the Langley site (Area C) is seen as having a neutral impact against those criteria. In addition, Area C attracts a positive score in respect of sustainable transport while the other two sites are judged to be neutral.

178. The SA's findings in respect of sustainable transport were the subject of much critical comment, most notably in a detailed report prepared by WSP Parsons Brinckerhoff [WSP PB] for the promoters of Area B[60]. I agree with many of the criticisms made. I have already made it clear that the detailed PRISM assessment of the traffic impacts of Site C should not be taken into account in comparing the alternative sites. I also find it hard to understand how TA3 arrived at significantly different accessibility and sustainability scores for Areas A, B and C, especially as the weighting given to these scores is not transparent.

179. Any SUE development would be expected to provide both new on-site facilities such as shops and schools, and new high-quality public transport services. In my view this would be far more important in determining the potential for achieving sustainable transport patterns than any marginal differences in the relative accessibility of the three sites to existing facilities or existing railway stations[61]. As the WSP PB report points out, the three potential SUE sites are adjacent to one another and would have almost identical transport infrastructure requirements.

180. From my own assessment of the available evidence, therefore, the different scores given to Areas A, B and C against the sustainable transport objective in Table 5.2 of EXAM 154 are not justified. Nor is the worse score given to Area A, compared with the other two, in respect of air quality. All three should be scored the same against those objectives.

181. Bearing in mind the emphasis in the PPG on proportionality and the prudent use of resources, I consider it unnecessary to ask the Council to carry out further work on these matters, as some representors have suggested. In my view, it is unlikely that it would provide such conclusive new evidence as to justify the additional cost and delay that would be caused.

182. I also find no justification for scoring Areas A and B differently from Area C against the sense of place and social and environmental responsibility objectives. There are no intrinsic factors that would prevent these objectives being achieved on each site through good design and careful management of the development process.

183. On the other hand, however, I find that EXAM 154 tends if anything to underplay the greater landscape impacts that would arise from developing Area A or B rather than Area C. Both the former vary considerably in terms of

[60] Appendix 6 to the Turley response to consultation on the Revised SA

[61] In reaching this view I have taken into account the recent planning permission for retail development at Mere Green and representors' criticisms of the base data for TA3.

landscape character. Parts of them are semi-urbanised or intensively farmed, but each also contains substantial areas where historic field boundaries, mature hedgerows, and areas of woodland, or streams and pools, create more intricately-patterned rural enclaves. By contrast, a far greater proportion of Area C consists of open arable fields with comparatively little distinctive landscape character.

184. These distinctions were confirmed by my own site visits as well as by the detailed landscape character assessments of all four potential SUE sites prepared for the Council [PG5]. Figure 04 in PG5 highlights the significantly greater sensitivity to residential development of Areas A and B, compared with Area C, with regard to landscape and visual effects. None of the other landscape assessments submitted to the examination takes a similarly comprehensive approach.

185. I advised in paragraph 44 of my IF that a previous SA document (SUB 5) contained an erroneous reference to landscape constraints in the northern part of Area B (there referred to as Area B1). Having looked again at the evidence, I see that my advice was only partially correct. In fact, as Figure 04 in PG5 makes clear, while the northernmost tip of Area B1 has low landscape sensitivity, further south it contains zones of medium and high sensitivity. The position is correctly stated in Exam 154, Appendix C, page C16.

186. EXAM 154 also justifiably gives lower scores to Areas A and B than to Area C against the biodiversity objective. While the differences in the sites' relative ecological value may be not expressed with complete clarity in the Appendix C commentary, they are evident from the *Ecological Constraints and Opportunities* report for the Council [PG7] which underpins the SA assessment[62]. No similarly comprehensive ecological assessments are available.

187. One representor claims that, at the Matter E hearing session, the Council accepted *there was no difference between [Areas] B and C from a landscape and ecology perspective.* I have no record of any such concession, and the Council deny making it[63]. In any case, even if a Council officer had said that briefly at the hearing, it would not outweigh the very substantial evidence pointing to the opposite conclusion.

188. The SA objectives do not specifically take account of the impact of development on best and most versatile [BMV] agricultural land. Evidence in the June 2014 *Green Belt Assessment Addendum* [PG2] indicates that a small proportion of Area C falls into the Grade 2 and Grade 3a classifications. There is no comparably detailed evidence for Areas A and B. But even if those areas were found to contain no land above Grade 3b, it is highly unlikely that development of Area C with its small amount of better-grade land would have a significantly greater environmental impact.

189. EXAM 154 additionally assesses the relative merits of developing sub-areas within Areas A, B and C – the north-western part of Area A (Area A2), and the southern parts of Areas B and C (Areas B2 and C2). Section 5.2 explains that

[62] See PG7, section 5.
[63] See EXAM 166C.

those sub-areas were assessed because they are also large enough to accommodate a SUE of around 5,000 dwellings. However, this is not apparent from the underlying evidence base. Neither PG1 nor PG3 puts the capacity of any of these three sub-areas as high as 5,000: C2's is the closest at around 4,500, while A2's and B2's are both lower[64]. Moreover, the PG3 figures were based on a density of 40dph, which in the light of MM16 is likely to overstate potential capacities.

190. Areas A2, B2 and C2 cannot, therefore, be seen as reasonable alternative sites for a SUE of around 5,000 dwellings. But while their inclusion in the EXAM 154 assessment may have been superfluous, in my view it would be unreasonable to see it as invalidating the latter's findings on Areas A, B and C, which evidently do constitute reasonable alternatives. Nor would any practical purpose be served at this stage of the examination if I were to require EXAM 154 to be revised in order to delete the assessment of Areas A2, B2 and C2. On the contrary, it would create unhelpful delay.

191. Given that, on the available evidence, Area B2 could not accommodate around 5,000 dwellings, it seems highly unlikely that "Area B3", (a sub-area of B2 promoted by a representor) could do so. No firm evidence that it could was put to me. Area B3 must therefore also be excluded from consideration as a reasonable alternative SUE site. Nor was I made aware of any other sub-area, or specific combination of adjacent sub-areas, that is capable of providing around 5,000 dwellings.

192. To summarise, as was the case with the second stage assessment I do not agree with all the findings of EXAM 154 in its third-stage comparison of potential SUE sites. In particular, there is no sound basis, in my view, for awarding different scores to Areas A, B and C against the objectives of sustainable transport, air quality, sense of place and social and environmental responsibility. On the other hand, I consider that EXAM 154 is entirely justified in finding that Areas A and B perform significantly worse against natural landscape and biodiversity objectives than Area C.

193. Given that the effects of developing each of the three areas are judged to be equivalent in all other respects, these significant differences in landscape and biodiversity impacts provide a sound and rational basis for the Council's decision to allocate Area C (Langley) as a SUE for the development of 5,000 dwellings during the BDP period. From my own assessment of the evidence I agree that, of the reasonable alternatives, a SUE on Area C is most consistent with the objectives of sustainable development.

Other points on SA of the SUE options

194. It was the first stage of SA that provided the justification for the selection of Option 3 – strategic release of Green Belt land. I see no reason to revisit that assessment now that the objectively-assessed level of housing need has been determined to be 89,000 dwellings. As I have made clear earlier, when the first stage of SA took place, housing need in Birmingham up to 2031 was projected to be between 75,000 and 95,000 dwellings. The current figure of

[64] PG3, Table 10.1

89,000 is well within that range. Appropriate account was taken of the benefits of additional housing delivery in the comparisons made during the later SA stages.

195. EXAM 154 was criticised by some representors on the grounds that no new evidence was prepared to support its assessments, particularly in respect of the second-stage assessments of the new 500- to 3,000- and 7,500-dwelling options. It will be evident from the discussion above that I disagree with some of the individual findings in the document. But overall I consider that its evidence base is sufficient and that it provides adequate explanations for the Council's decisions to reject the reasonable alternatives in favour of their preferred option, at each stage of analysis.

Comparison of potential strategic employment sites

196. As noted above, the Peddimore strategic site (Area D) was rejected as a potential SUE allocation as a result of SA. Together with part of the Langley SUE site (Area C), it was also shortlisted by PG1 as a potential large-scale employment allocation. A full appraisal of the comparative sustainability effects of employment development on Areas C and D was made in EXAM 154. The appraisal favours Area D principally because it has fewer neighbouring residential areas than Area C, from which it is separated by the dual-carriageway A38. Thus large-scale employment development here would have less harmful impacts on living conditions, due to noise and effects on air quality, than employment development on Area C. These judgments, with which I concur, were not challenged by any substantial evidence.

197. The amount of land required for a strategic employment site at Area D would be significantly less than for a SUE. This would reduce its potential impact on archaeological deposits and enable development to be kept away from impinging on the setting of the listed Peddimore Hall. However, as submitted, policy GA6 envisaged 80ha of developable land at Peddimore. In order to provide that developable area, buildings could not be confined to the lower-lying part of the site, where their visual impact would be largely contained in a shallow bowl of land, but would encroach onto the more visually prominent upper slopes surrounding it.

198. **MM18** therefore modifies the policy to reduce the developable area to 71ha and to control building heights at the edges of that area, in order to overcome the landscape impacts. The allocation also includes land to provide landscape buffers between the developed area and the surrounding open countryside. Notwithstanding the reduction in the developable area, it is logical to keep Wiggins Hill Road as the eastern boundary of the allocation in order to provide a clear, defensible Green Belt boundary. However, for the avoidance of doubt the developable area should be clearly indicated on the Policies Map[65].

199. PG2, Figure 2 shows that a very large proportion of the developable land at Peddimore falls into the Grade 2 or Grade 3a agricultural classifications. This factor is not specifically considered by EXAM 154. NPPF paragraph 112 advises that, where significant development of agricultural land is

[65] The proposed modification to the Policies Map [EXAM 156, PMM85F], as published for consultation alongside the MMs, shows the 71ha modified developable area correctly.

demonstrated to be necessary, preference should be given to areas of lower-quality land. However, no other alternative large-scale employment sites of comparable quality to Peddimore have been shown to be available, either on agricultural land or elsewhere. In view of the pressing need for additional Best Urban land to meet Birmingham's employment development needs[66], I consider that the loss of this BMV land at Peddimore is justified.

Deliverability of the strategic sites

200. Policy GA5 sets out the specific requirements for the Langley SUE development. There is a strong emphasis on design quality, informed by the local topography, landscape and heritage assets. Substantial areas of publicly-accessible green space are required, including a green corridor linking the development to the New Hall Valley country park to the west and the countryside to the east. Existing wildlife habitats, such as woodlands and streams, and heritage assets will be protected, and new habitats will be created. These measures will go a long way towards offsetting the negative environmental effects identified in the SA.

201. The combined traffic effects of a SUE on Area C and a strategic employment site at Peddimore have been the subject of detailed modelling by the Council's agents, in consultation with Highways England and neighbouring county councils. A series of informed criticisms of that modelling work were made before, during and after the hearing sessions, but each was convincingly rebutted[67]. In particular, I find no reason to consider that the methodology failed to meet national standards, or that it misrepresented the level of traffic generation. Highways England have confirmed that they are satisfied with the outcomes of the modelling and the proposed mitigation measures to the strategic road network[68].

202. It would be unrealistic to suppose that development in this scale would have no external traffic impacts. But I am satisfied that the modelling work so far undertaken has identified the highway improvements, particularly at junctions, and the traffic management strategies that are necessary to accommodate the additional traffic on both main and local roads. It has shown that, with those measures in place, the likely effects of the proposed developments on the road network are acceptable.

203. The model included a series of bus service improvements, with two new routes linking Langley and Peddimore to Sutton Coldfield and the city centre, and alterations to two other routes to provide enhanced connections, including to destinations beyond Birmingham. Necessary measures to assist pedestrian and cycle movements and link the development to the surrounding area have also been set out. All the transport schemes, which are referenced in policy GA5, have been costed and likely funding sources have been identified[69]. As is usual for large-scale developments, schemes will be worked up in more detail and implemented as the development comes forward.

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[66] See Issue C above.
[67] See EXAM 66, 111 & 130.
[68] See their Matter E hearing statement.
[69] See TA8, sections 4 & 9 and Annex E.

204. Consultation revealed some scepticism among local residents about how effective the new bus routes will be, and about the potential effects of bus lanes, in particular, on other traffic movements. This scepticism focussed especially on the proposed "Sprint" rapid transit route between Sutton Coldfield and Birmingham city centre. However, bus lanes are only one of a number of potential bus priority measures under consideration. Centro[70] are currently developing a pilot Sprint service in partnership with the local bus operator. Public transport improvements are an essential part of the Plan's overall transport strategy, and it is difficult to see how traffic growth, whether at Langley and Peddimore or elsewhere in the city, would otherwise be kept within manageable limits.

205. Policy GA5 requires the provision within the development of new primary schools, a secondary school, early years' and health care facilities, and local shops and services. Subject to a specific requirement for flood risk modelling of Langley Brook, there are no substantial flood risk issues that would compromise the proposed development. Site drainage will be dealt with in accordance with the comprehensive provisions of policy TP6.

206. Developer contributions to infrastructure provision at Langley are to be made through planning obligations rather than CIL. This approach was endorsed by the inspector who carried out the Birmingham CIL examination[71].

207. A number of modifications to policy GA5 and its reasoned justification (**MM16 & MM17**) are needed to ensure effectiveness and consistency with relevant evidence and national policy. In particular, changes are necessary to clarify density guidelines (reflecting the site's landscape character and environmental qualities and the primary focus on providing family housing), and to emphasise the design role of the proposed masterplan and Supplementary Planning Document [SPD]; specific references to early years' provision, rapid transit bus services and pre-development minerals investigation and extraction need to be added; and amendments are needed to facilitate the effective provision of green space in line with other BDP policies, and to require appropriate soil protection measures.

208. However, I consider that no change is needed to the policy requirement for the development to *achieve the highest standards of sustainability and design*. That is an appropriate aspiration for a development of this scale, and unlike the original wording of policy PG3, the reference to "standards" is not open-ended. On the contrary, policy GA5 contains a specific section spelling out what is required in respect of sustainability and design. There is no implication that the policy imposes requirements that are inconsistent with modified policies TP3 and TP4, or with national policy.

209. The policy states that the development will provide approximately 6,000 new homes[72]. The Council's view, based on document PG3, is that about 5,000 of those dwellings would be delivered during the BDP period, provided there is a reasonably strong recovery in the housing market. The promoters of the site

[70] Centro is the body responsible for delivery of public transport in the West Midlands.
[71] See EXAM 153, paras 60-61.
[72] As published for consultation, MM16 proposed deleting the word "approximately", but it is appropriate to retain it, as it is unlikely that exactly 6,000 dwellings will be built.

consider that higher delivery rates are feasible, possibly enabling about 6,000 dwellings to be built by 2031. While that would undoubtedly be welcome – and would not be discouraged by the BDP's policies – in my view it is appropriate to base the Plan's requirements on the Council's more cautious view.

210. Policy GA6, which will govern the strategic employment development at Peddimore, contains equivalent requirements to GA5 in respect of design, green space provision, the protection and enhancement of biodiversity and heritage assets (including archaeological deposits), and transport improvements. Alongside the changes outlined above, **MM18** clarifies the transport measures that are required, and inserts references to soil protection and pre-development minerals investigation and extraction. These amendments are needed to ensure that the policy is justified and effective.

211. As at Langley, no CIL will be levied on the Peddimore development. In view of the evidence of demand for high-quality employment land, there is a good prospect that the site will be built out over the BDP period. There is no substantial evidence before me to the contrary.

The Yardley residential allocation

212. The former sewage works at Yardley ceased operation in the 1970s. Investigation of ground conditions and contamination risks has shown that it is feasible to build about 350 dwellings on part of the site. The development would also facilitate improved access to, and enhancement of, the River Cole valley, which is an important green area in this intensively built-up part of Birmingham.

213. PG1 demonstrates that, unlike the rest of the Cole valley, the previously-developed former sewage works do not fulfil any of the Green Belt purposes defined in NPPF paragraph 80, and have no significant ecological value. SA found no negative impacts from the development of 350 dwellings there. Accordingly, I consider that the allocation of the Yardley site for housing accords with the objective of promoting sustainable development.

Exceptional circumstances

214. Assessments of the contribution that the Langley and Peddimore sites make to the purposes of the Green Belt, as defined in NPPF paragraph 80, are made in PG1. Given their location, neither plays any significant role in preventing the merger of neighbouring towns or in preserving the setting and character of historic towns. In my view, preserving their Green Belt status is not essential in order to encourage the recycling of derelict and other urban land, given the clear evidence of a shortage of land to meet Birmingham's overall development needs. The decision to release these two defined areas of land for development will not lead to "unrestricted sprawl", and both have defensible boundaries formed by main roads and topographical features.

215. On the other hand, it is undeniable that the proposed developments at Langley and Peddimore will constitute encroachment into the countryside. The way that the effects of this have been considered through SA, and the mitigation measures that are proposed, have been set out above. Taking all this into

account, I consider that the encroachment that will result from these two strategic allocations is justified for the following reasons.

216. Birmingham is not the only local planning authority area that faces difficulties in providing sufficient housing land to meet the needs arising within its own boundaries. But the scale of potentially unmet need in the city is exceptional, and possibly unique. Without strategic Green Belt release, there are sites for around 46,000 new dwellings – only just over half the objectively-assessed need for 89,000. The release of Green Belt to provide an additional 5,000 dwellings at Langley over the Plan period, and a further 350 dwellings at Yardley, would make a very substantial contribution towards meeting the shortfall. For the reasons set out above, the evidence does not support any additional strategic residential allocations in the Green Belt.

217. Even with the release of the Langley and Yardley sites, the BDP will leave a shortfall of around 38,000 dwellings that will need to be met elsewhere in the Greater Birmingham HMA. The duty to co-operate requires good faith on the part of other authorities in the HMA in helping to meet the shortfall. Equally, though, it requires that BCC should maximise the provision of housing land within the city boundary to meet the assessed needs, to the extent that this is compatible with the objectives of sustainable development. The release of the Langley and Yardley sites is necessary to achieve this.

218. The evidence to support the need for the Peddimore strategic employment allocation is set out under Issue D. That evidence shows that Birmingham has substantial quantities of previously-developed employment land, but very few sites that are suitable for high-quality employment development. The safeguarding of the Washwood Heath site for the HS2 maintenance depot has effectively removed the largest of those potential sites from consideration. Thus the allocation of the Peddimore site is essential to meet the city's economic growth needs, which are important not just for its own prosperity but also for that of the wider region.

219. In my view, this combination of factors means that exceptional circumstances exist to justify alterations to the Green Belt boundary in order to allocate the SUE site at Langley (policy GA5), land for housing at the former Yardley sewage works (policy GA8) and the strategic employment site at Peddimore (policy GA6). In the case of Yardley, **MM22** is needed to set out this rationale, as it is currently absent from the reasoned justification to policy GA8.

Timing of Green Belt release

220. I have considered the suggestion that the Langley and Peddimore sites should be held in reserve until later in the BDP period, and only released if sufficient development does not come forward on other sites in Birmingham, the vast majority of which are brownfield land. But notwithstanding the encouragement given in the NPPF to the reuse of previously-developed land, such an approach would run contrary to the overwhelming evidence of shortage of other land in the city to provide for the levels of housing and employment development that are necessary. Given the significant lead-time required for building on these strategic sites, it would also jeopardise the

contribution they are required to make towards meeting needs during the Plan period. For those reasons, it would not be a sound approach.

Should other Green Belt or greenfield allocations be made?

221. The evidence that demonstrates the soundness of the allocations at Langley, Yardley and Peddimore also adequately supports the Council's decision not to allocate other Green Belt sites for development in the BDP. There is no substantial evidence before me of development needs beyond the BDP period that would justify allocating Area A and/or B for development after 2031.

222. North Worcestershire Golf Club [NWGC] is in financial difficulties and is shortly to close. Its course, which could potentially accommodate around 800 new dwellings, is in a sustainable location outside the Green Belt in the southern suburbs of the city. At present there is no public access to the course, and it is likely that provision of open space as part of any development could compensate for the loss of public views from the site perimeter.

223. However, the course is surrounded by residential streets and lies some distance from the nearest main roads. While I was shown details of proposed access points to the site, there has been no detailed analysis of the impact of traffic from an 800-house development on the local road network or on local residents' amenity. In the absence of such analysis, the allocation of NWGC for development would not be justified. No other substantial areas of greenfield land in Birmingham were shown to be available for development.

Conclusion on Issue E

224. Subject to the MMs that are necessary for soundness, for the above reasons I conclude that the BDP complies with national policy in its approach to the Green Belt; that the allocations of Green Belt land for a SUE at Langley, employment development at Peddimore, and residential development at Yardley are justified and deliverable; and that no other Green Belt or greenfield allocations should be made.

Issue F – *Are the BDP's policies and proposals for the other identified Growth Areas justified and deliverable?*

225. As well as the new Green Belt development areas at Langley and Peddimore, the BDP identifies eight other areas of the city which will make a substantial contribution to the development growth sought by policy PG1. These other Growth Areas are already largely built-up, and so growth and regeneration within them will be mainly achieved through the reuse of previously-developed urban land[73]. The BDP's proposals for each area are helpfully illustrated by a series of plans that have been updated to reflect current circumstances and to show extra detail of the areas and their environmental features. However, **MM5** is required to make it clear that these illustrative plans do not form part of the policies themselves or of the Policies Map.

[73] EXAM 21 sets out the evidence base for the amount of development expected in each Growth Area.

The City Centre (GA1)

226. The largest of the Growth Areas is the City Centre, which has already experienced considerable growth and transformation in recent years. The Council's aspiration is to expand city centre development and activity beyond the inner ring road into the surrounding neighbourhoods, in similar fashion to the changes that have already occurred along Broad Street and at Brindleyplace. Much of BDP policy GA1 – including improvements to accessibility, and the identification of seven City Centre Quarters whose distinct characters are to be supported and strengthened – reflects the approach already established through the Council's non-statutory Big City Plan of 2010.

227. The overall goal of strengthening the social and economic vitality of the city centre clearly reflects national policy, and the measures set out in policy GA1 build on existing good practice. To ensure that the policy is fully effective, **MM6 to MM10** (inclusive) are needed to reflect the importance of the canal network and the proposed new HS2 station in supporting city-centre vitality, to ensure that policy GA1 is consistent with other BDP policies, and to clarify its relationship to other policy and strategy documents.

Longbridge (GA10)

228. The extensive sites on the southern edge of Birmingham, formerly occupied by the MG Rover car plant, are the subject of an AAP that was adopted in 2009[74]. The AAP contains a series of site-specific and other proposals, many of which embody detailed policy requirements, including a Longbridge Infrastructure Tariff [LIT] to be levied on new developments.

229. The AAP was examined and adopted before the publication of the NPPF and it may be that some of its proposals, to a greater or lesser extent, no longer reflect government policy. But the AAP itself is not before me for examination and so it would not be appropriate for me to reach any conclusions on its soundness. It is for the Council to bring forward a review of the AAP in order to take into account changes in national policy and other relevant circumstances. In the meantime the weight to be given to it in planning decisions will be determined in accordance with NPPF paragraph 215.

230. Equally, however, it is inappropriate for policy GA10 to state that *Future growth and development in Longbridge will be brought forward in line with the policies set out in the AAP*. That would incorrectly imply that the soundness of the AAP had been tested and endorsed through this examination. **MM24** therefore deletes those words. Together with **MM25**, it also makes amendments to take account of a recent planning permission for major retail development, to clarify the significance of the reference in the reasoned justification to an ITEC park, and to acknowledge the Council's intention to discontinue the LIT when their CIL is introduced.

231. These modifications are sufficient to make policy GA10, in its own terms, effective and compliant with national policy. There are inconsistencies between some of its requirements and those of the AAP, but NPPF paragraph

[74] By Birmingham City Council and Bromsgrove District Council

215 provides the means for resolving these in development management decisions. Nonetheless, it would be desirable for a review of the AAP to take place in the near future, in order to provide a more focussed, thorough and up-to-date planning framework for the regeneration of these important sites.

Other Growth Areas (GA2-GA4, GA7-GA9)

232. **MM11 & MM12** are needed to ensure that policy GA2 accurately reflects the categories of development envisaged on the former City Hospital site, and the importance of the canals to the regeneration of the Greater Icknield area. **MM13** deletes reference to the Aston, Newtown and Lozells AAP from policy GA3: it is required for the same reason as the corresponding deletion from policy GA10[75]. It also clarifies the proposals for the former City University teaching campus. Contrary to concerns expressed at the hearing, the policy does not envisage the redevelopment of the Perry Barr stadium, but only highlights its potential for enhancement: the Council will alter paragraph 5.47 of the reasoned justification to make this clear.

233. **MM15** corrects a policy cross-referencing error in policy GA4, which otherwise sets out a sound framework for development in and improvements to Sutton Coldfield town centre. **MM19 & MM20** ensure that policy GA7 gives adequate recognition to existing sports facilities in the Bordesley Park area, including Birmingham City FC and the Birmingham Wheels Park. In particular, they require appropriate replacement premises to be found for the Wheels Park (or appropriate consolidation on site), before its existing site is redeveloped for employment use. This is necessary to achieve a proper balance between social and economic objectives for future development in the area, given the value of some of the facilities at the Wheels Park to local schools and community groups.

234. **MM21** and **MM23** are required to give the necessary precision to the requirements for environmental enhancement and transport improvements in the Eastern Triangle (GA8) and Selly Oak and South Edgbaston (GA9) areas. There is no substantial evidence that inclusion of the former Smith and Nephew site on Alum Rock Road within the Bordesley Park AAP area is necessary to achieve its successful redevelopment.

235. On a larger scale, there is similarly no need to extend the Selly Oak and South Edgbaston Growth Area in order to promote growth in other parts of Edgbaston and Harborne. Indeed, to do so would risk undermining the focussed initiatives within the Growth Area itself that are being promoted through a recently-adopted SPD[76]. The existing combination of positive development management and informal strategies are sufficient to achieve the BDP's development objectives in other locations such as Hagley Road, Edgbaston Village and District Centre, and the Botanical Gardens and their surroundings.

[75] See the last-but-one paragraph.
[76] See EXAM 163: *Wider Selly Oak Supplementary Planning Document*, June 2015.

Conclusion on Issue F

236. Subject to the MMs identified as necessary for soundness, the BDP's policies and proposals for the identified Growth Areas are justified and deliverable.

Issue G – *Are the BDP's policies towards town, district and local centres positively-prepared, justified and effective? Does the Plan make appropriate provision for retail, leisure, tourism and related uses?*

Overall policy approach

237. NPPF paragraph 23 advises that *local planning authorities should define a network and hierarchy of centres that is resilient to anticipated future economic changes*. BDP policy TP20 defines a realistic, five-tier centre hierarchy with the highest levels of retail and office growth allocated to the City Centre, followed by Sutton Coldfield Sub-Regional Centre and three District Growth Points.

238. The overall amount of retail growth planned for is consistent with the city-wide total set out in policy PG1 (as amended by **MM2**) which in turn reflects the findings of the *Birmingham Retail Needs Assessment Update*, February 2013 [EMP6]. **MM2** is needed to correct a drafting error in the policy as submitted, to ensure that the comparison retail floorspace requirement is correctly given as 350,000sqm. This figure reflects growth to 2026 only, in view of the considerable uncertainty surrounding longer-term forecasting. Growth beyond 2026 will need to be taken into account in a Plan review. While there are no specific allocation figures for District and Local Centres, evidence on existing commitments[77] indicates that the retail provision total will easily be met.

239. In the light of the NPPF advice I consider that the general limits which policy TP20 imposes on the scale of retail and office growth in the fourth and fifth tiers (District and Local Centres)[78] are justified. They will ensure that appropriate account is taken of the centre hierarchy in the development management process. Nonetheless, the policy also allows for flexibility in decision-making to take account of individual circumstances and future changes. Thus I find no substantial evidence to support the view that the limits will lead to inappropriate out-of-centre development.

240. Policy TP20 does not make it adequately clear that, where it refers to the need for proposals outside defined centres to meet national policy requirements (including the sequential test), this applies to <u>all</u> main town centre uses as defined in the NPPF. **MM55 & MM56** make the necessary corrections. However, the policy's encouragement for locating community facilities in centres does not imply that the sequential test applies to all community uses: there is no conflict with national policy in this respect. In order to ensure TP20's effectiveness, the modifications also clarify its retail floorspace requirements and its relationship with other BDP policies, give appropriate

[77] See EMP6, Spreadsheet 5.
[78] These are also reflected in the provisions of policy TP21.

recognition to the role of the leisure and evening economy in centres, and specify where the boundaries of the centres are defined.

241. Submitted policy TP23 does not make clear which uses will be permitted in town centre frontages, as is also required by NPPF paragraph 23: instead it inappropriately seeks to devolve this aspect of policy to a SPD[79]. This shortcoming is rectified by **MM57 & MM58**, which also correct the omission of pubs and bars from the list of uses that will be encouraged in centres. Policy TP24, as submitted, gives appropriate recognition to the importance of tourism facilities to the city and its economy, but **MM59** is needed to ensure that similar support is given to Birmingham's cultural facilities, including those for spectator sports[80].

Local considerations

242. The recent planning permission for major retail development at Longbridge means that it would be unrealistic to continue to regard it as a Local Centre. **MM55** therefore promotes it to the District Centre tier of the hierarchy and makes the necessary cross-references to policy GA10, where an updated retail floorspace figure for the centre is set out. That updated figure, all of which is already built out or committed, is double the amount of floorspace envisaged in the 2009 Longbridge AAP, and is comparable with the scale of retail floorspace in other District Centres.

243. There is no substantial evidence to show that the rest of the development proposed at Longbridge requires more retail provision than this to meet its needs, and I share the Council's concern that increasing the retail provision figure further could pose a threat to the vitality and viability of other centres nearby. **MM24** therefore amends policy GA10 to make it clear that any additional retail provision at Longbridge will be subject to a retail impact assessment, thereby providing the necessary protection for other centres while maintaining necessary flexibility in future decision-making.

244. I find no justification for adding more centres in the hierarchy: in particular, Edgbaston Mill and other shopping parades in the Edgbaston area do not meet the criteria for designation in BDP paragraph 7.22. While Stechford lacks the scale and concentration of retail provision necessary to make it a District Centre, its Local Centre status will not impede the growth and development envisaged by policy GA8. No other centres in Birmingham play the same widely-recognised niche roles as those already singled out for mention in policies TP22 and TP23.

Conclusion on Issue G

245. Subject to the MMs necessary for soundness, the BDP's policies towards town, district and local centres are positively-prepared, justified and effective. The Plan makes appropriate provision for retail, leisure, tourism and related uses.

[79] The *Shopping and Local Centres SPD*, adopted in 2012
[80] See Issue K.

Issue H – *Is the BDP's approach to minerals and waste planning justified, effective and consistent with national policy?*

Minerals

246. The NPPF requires Minerals Planning Authorities [MPAs], of which the City Council is one, to prepare an individual or joint Local Aggregate Assessment [LAA], the primary purpose of which is to assess requirements for and supply of minerals in the LAA area. Local Plans should define Minerals Safeguarding Areas [MSAs] so that specific minerals resources of local or national importance are not sterilised by other development, and include policies for the extraction of those resources. The NPPF also places emphasis on the use of secondary or recycled minerals in preference to primary extraction.

247. Although the West Midlands local authorities are preparing a joint LAA, no draft had been published by the time of the examination hearings. No minerals extraction has taken place in Birmingham for over 30 years and there are no current proposals for extraction. The British Geological Survey mineral resources map of Warwickshire and the West Midlands[81] shows pebble-bearing bedrock and deposits of sand and gravel lying across much of the city. However, the majority of these lie underneath established urban development, the chief exceptions being in the areas of Green Belt in the northern part of the City Council area.

248. There is a significant gap in the BDP's coverage in respect of minerals planning. In my view, however, designating a MSA across all or large parts of the city would be something of an artificial exercise, given the limited opportunities that, on past evidence, are likely to arise for exploitation of sand and gravel resources. The aims of national policy should instead be met by focussing on realistic opportunities for extraction, which are only likely to arise in connection with relatively large-scale development.

249. **MM48** therefore introduces a new Plan policy (TP15A) requiring development on all sites over 5ha to be preceded by an investigation of mineral deposits on the site, and the extraction of any that are found to be viably workable. The word "viably" has been inserted following consultation, as it would clearly be unreasonable to require prior extraction if it is not commercially viable[82]. Setting a 5ha threshold strikes an appropriate balance between promoting the extraction of workable minerals and avoiding the unnecessary screening of applications where extraction is unlikely to be viable.

250. New policy TP15A also safeguards infrastructure for processing substitute, secondary and recycled aggregates and for producing concrete building materials, together with any associated bulk transport facilities, as advised by the NPPF. This is especially important in a dense urban area like Birmingham, where secondary and recycled aggregates can account for an important share of the supply of building materials. There is scope for providing new minerals processing and transport infrastructure in the Core Employment Areas.

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[81] EXAM15B

[82] Similar changes have been made to MM16 & MM18, for the same reason.

251. From the consultation responses it is clear that there is some concern among neighbouring MPAs over the likely demand for aggregates from future development in Birmingham. Demand over the Plan period is put at a minimum of 40 million tonnes by the Council[83]. In the light of this it is vital that work on the joint LAA is completed soon, in order to provide more certainty over the scale of future demand, and to set a robust framework for meeting it in as sustainable a manner as possible.

Waste

252. The BDP's waste policies are underpinned by a comprehensive Waste Capacity Study, updated in 2014 [ES5 & ES6], and the *Birmingham Total Waste Strategy* [ES7]. Both documents recognise the importance of reducing dependence on landfill sites outside the City Council area, even if the original objective of eliminating use of landfill altogether by 2026 may be unachievable[84]. In the context of the substantial projected increase in waste arisings over the Plan period, this will require significant expansion of waste management facilities, whether or not Birmingham currently achieves equivalent self-sufficiency.

253. Policy TP13 reflects guidance in the *National Planning Policy for Waste* as well as the *Birmingham Total Waste Strategy* in seeking to drive waste management up the waste hierarchy and to reduce the proportion of waste sent to landfill. To ensure the policy's effectiveness, **MM45** requires the preparation of a waste minimisation and management strategy for all developments on sites of more than 5ha.

254. In accordance with the proximity principle, policy TP14 encourages the development of materials recycling facilities, food waste management and expanded facilities for commercial waste, incorporating emerging technologies where appropriate. **MM46** is necessary to clarify its provisions for safeguarding existing waste management facilities and capacity. Policy TP15, as clarified by **MM47**, identifies the Tyseley Environment Enterprise Area and other industrial areas as suitable for waste management development, and sets out criteria for assessing development proposals.

255. As modified, these policies provide an adequate planning framework for the development of the additional waste management facilities that will be required over the Plan period.

Conclusion on Issue H

256. Subject to the MMs that have been identified, the BDP's approach to minerals and waste planning is justified, effective and consistent with national policy.

[83] BCC's Matter C hearing statement, para 2.3
[84] ES7, para 6.3.1.3

Issue I – *Are the BDP's policies to mitigate and adapt to climate change and reduce flood risk justified and effective?*

257. **MM26 to MM28** (inclusive) are necessary to ensure that policies TP1 and TP2 set out the Plan's overall approach to reducing carbon emissions and adapting to climate change accurately and comprehensively. Submitted policy TP3 requires amendment for consistency with national policy, in the light of the Written Ministerial Statement *Planning Update* of 25 March 2015. While the policy continues to encourage good sustainable construction practice, **MM29 & MM30** are needed to ensure that it does not set any specific standards for residential development, beyond those embedded in the Building Regulations.

258. Policy TP4 requires all new developments to incorporate low- or zero-carbon energy generation, or to connect to such generation networks where they exist. Such a requirement is permitted by s1 of the *Planning and Energy Act 2008*, but in order to make the policy compliant with NPPF paragraph 96, **MM31** qualifies it by reference to a viability test.

259. The viability test also applies to larger developments[85], for which the policy requires first consideration to be given to a Combined Heat and Power [CHP] system. According to evidence prepared for the Council [EXAM 148], those parts of the city with the strongest viability are also the areas with the greatest potential for developments of this size to come forward. **MM32** is needed to make it clear that a proposed SPD will provide more detail on the implementation of TP4, without inappropriately adding to its requirements.

260. **MM33 & MM34** make substantial amendments to policy TP6 in the light of advice from the Environment Agency. The changes, which take appropriate account of viability considerations, are necessary to ensure that the policy is effective in managing flood risk and protecting and enhancing water resources, in a manner consistent with national policy. The qualification that an easement will be provided between development and watercourses "where appropriate and feasible" is justified, having regard to the densely built-up character of much of Birmingham.

261. Subject to the MMs that are necessary for soundness, the BDP's policies to mitigate and adapt to climate change and reduce flood risk are justified and effective.

Issue J – *Are the BDP's policies towards transport and digital communications justified and effective?*

262. Policy TP37 sets out the BDP's overall strategy for transport: **MM73** is needed to ensure that the list of potential measures it sets out is comprehensive. The reasoned justification explains the context in which they will be applied. As arrangements already exist for consulting the police on transport schemes, there is no need for this to be made a development policy requirement.

[85] Residential developments over 200 units and non-residential development over 1,000sqm

MM74 is necessary to make policy TP39 fully effective in its requirements for development-related measures to encourage cycling.

263. Policy TP40, which covers public transport, requires a number of amendments to ensure that it fully reflects infrastructure and service improvements that have a reasonable prospect of coming forward in the lifetime of the Plan. These include extensions to the Midland Metro, construction of rail chords at Camp Hill and new stations on the Camp Hill and Sutton Park lines, and bus-based rapid transit services to many parts of the city. All these schemes are in progress or are under active consideration by Centro and Network Rail.

264. On the other hand, the reference in the submitted policy to a new station at Soho Road is not justified, as it is clear from the representations that there is no current prospect of this station being provided in the Plan period, and the area is already served by the Midland Metro. Similarly, however desirable it might be for additional heavy rail stations to be provided in the city centre, and for a combined station to be provided for the new HS2 terminus and existing mainline routes, it seems from the evidence that such schemes are very unlikely to come forward, at least by 2031.

265. A further amendment to Policy TP40 is required to make it clear that land subject to the *HS2 Phase One Safeguarding Directions* will be protected in line with the statutory requirements[86]. All the necessary changes to the policy and its reasoned justification form **MM75 & MM76**.

266. **MM77 & MM78** amend policy TP41 to ensure its effectiveness in making provision for freight transport, and in controlling its environmental effects, while **MM79 & MM80** remove erroneous references to the "Smart Route" approach from policy TP43. The Highway Improvement Lines protected by the latter policy all apply to schemes that have already secured funding or for which funding bids will soon be made. As modified, the policy sets out a comprehensive approach to traffic and congestion management in support of new development. **MM81 & MM82** are necessary to ensure the effectiveness of policy TP44's accessibility requirements for major developments.

267. Subject to the MMs identified as necessary for soundness, the BDP's policies towards transport and digital communications are justified and effective.

Issue K – *Does the BDP contain sound policies to protect and manage the natural and historic environment, open space, and sports and recreational facilities?*

268. Policies TP7 and TP8 together provide an appropriate framework for promoting biodiversity and geodiversity, subject to **MM35 to MM39** (inclusive) which make clear where the green infrastructure network and designated nature conservation sites in Birmingham are located, clarify what would constitute unacceptable harm to the network, and bring the criteria for assessing proposed developments on designated sites into line with national policy. Specific protection for ancient woodland is provided by policy TP7. The Council

[86] See EXAM 45.

will ensure that the Policies Map shows all categories of green infrastructure accurately.

269. While the Kiely Brothers site at Somery Road is currently used for storing building materials, its location close to the Weoley Castle Scheduled Monument, and on the line of the Castle Walkway and former Lapal Canal, makes it an important potential link in the green infrastructure network. In addition there are significant flood risk issues that would need to be overcome in order for it to be developed for an alternative use. For these reasons there is no compelling case for removing the site from the network.

270. **MM40 & MM42** are necessary to give greater precision to TP9's and TP11's requirements for the protection and provision of open space, playing fields, allotments and participation sports facilities, while **MM43** makes it clear that spectator sports facilities are covered by policy TP24 rather than TP11[87]. **MM44** is required to align the approach of policy TP12 to the historic environment with national policy.

271. Subject to these necessary modifications to ensure their effectiveness, the BDP contains sound policies to protect and manage the natural and historic environment, open space, and sports and recreational facilities.

Issue L – *Are the BDP's policies towards education and health justified and effective?*

272. Subject to the necessary clarification and consistency with other BDP policies provided by **MM71 & MM72**, policies TP35 and TP36 set out justified and effective arrangements for promoting education and health in Birmingham through the development management process.

Issue M – *Has the implementation of the BDP been shown to be economically viable? Does the BDP set out effective arrangements for implementing and monitoring the achievement of its policies and proposals?*

273. Up-to-date viability evidence relevant to the BDP is set out in the Council's *CIL Economic Viability Assessment* [IMP4] and *CIL Revised Viability Assessment* [EXAM 27], supplemented by EXAM 148 and EXAM 160. In preceding sections of this report, I have given detailed consideration to the effects on viability of the Plan's requirements in the key areas of affordable housing and low- or zero-carbon energy generation[88]. The Plan allows flexibility in these and its other policy requirements so that appropriate account can be taken of viability considerations. Accordingly, I am satisfied that the cumulative impact of the BDP's policy requirements, together with those of other applicable standards and policies, will not put its implementation at serious risk over the course of

[87] See Issue G.
[88] See Issues B & I.

the Plan period. A similar conclusion was reached by the examiner in respect of the Council's proposed CIL charging schedule[89].

274. Section 10 of the Plan gives a detailed account of the means by which it is to be implemented, recognising that a wide range of agencies and partners will be involved and that the private sector will play a key role. It emphasises the role of the Council's Infrastructure Delivery Plan [IMP1] and Site Delivery Plan [IMP2] in identifying the infrastructure necessary to support the BDP's development proposals. It refers to local, national and international sources of investment and grant funding for infrastructure and development, and acknowledges the importance of co-ordinating the City Council's efforts with those of other West Midlands local authorities and LEPs.

275. Taken as a whole, this is a positive and realistic assessment of what is required to secure the implementation of the Plan. In view of the importance it places on infrastructure provision and partnership working, there is no need for every category of infrastructure or potential partner agency to be mentioned specifically. Section 10 also sets out the means by which contributions will be sought, in accordance with statutory provisions, towards infrastructure and mitigation measures directly associated with and made necessary by development. In order for these to be effective, they need to be expressed as a policy: this is achieved by **MM83**.

276. Section 11 of the Plan contains a series of indicators against which implementation of its policies and proposals will be measured. **MM84** amends a number of these and adds others so as to ensure that coverage is comprehensive and properly targetted. In particular, these additions include monitoring indicators for delivery of the Plan's key growth targets for housing, offices, employment land and retail. As I found to be necessary when considering Matter B, **MM84** includes monitoring indicators to cover the housing growth outside the city that is required to meet the shortfall in Birmingham, and specifies the measures that will be taken, including early review of the Plan, if monitoring reveals that the necessary progress is not being made.

277. I conclude that implementation of the BDP has been shown to be economically viable and that, subject to the necessary modifications, it sets out effective arrangements for implementing and monitoring the achievement of its policies and proposals.

[89] EXAM 153, para 71

Assessment of Legal Compliance

278. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the Plan meets them all.

LEGAL REQUIREMENTS	
Local Development Scheme [LDS]	The BDP has been prepared in accordance with the Council's LDS (April 2014).
Statement of Community Involvement [SCI] and relevant regulations	The SCI was adopted in April 2008. Consultation on the BDP and the MMs has complied with its requirements.
Sustainability Appraisal [SA]	SA has been carried out and is adequate.
Appropriate Assessment [AA]	The Habitats Regulations Assessment Screening Report (October 2013) concluded that the BDP is not likely to lead to adverse effects on any European sites alone or in combination with other plans, and that there is no requirement to prepare an AA.
National policy	The BDP complies with national policy except where indicated and modifications are recommended.
2004 Act (as amended) and 2012 Regulations	The BDP complies with the Act and the Regulations.

Overall Conclusion and Recommendation

279. The BDP has a number of deficiencies in relation to soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. Those deficiencies have been explored in the main issues set out above.

280. The Council have requested that I recommend main modifications to make the Plan sound and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix to this report, the Birmingham Development Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

Roger Clews

Inspector

This report is accompanied by an Annex containing my Interim Findings and an Appendix containing the Main Modifications.