

Notes to accompany the Representation Form Development Management in Birmingham (DMB) DPD

1. Introduction

- 1.1 These notes have been produced to help you complete the Representation Forms (Part A and B) for the 'Publication' version of the DMB. It is important that at this stage of the plan-making process comments are submitted appropriately so that the Planning Inspector at Examination may consider them as fully as possible. Please contact us (details provided at the end of this document) should you need any further advice or have any questions.
- 1.2 This 'Publication' version of the DMB is the Council's final version of the document that it wishes to submit to the Secretary of State for Examination and adoption. This consultation provides the opportunity to make representations prior to submission. Any valid representations made at this stage will be considered alongside the 'Publication' version of the DMB at an independent examination held by a Planning Inspector.
- 1.3 The Planning and Compulsory Purchase Act 2004 (as amended) (PCPA) states that the purpose of the examination is to consider whether the plan (in this instance the DMB) complies with the legal requirements, the duty to co-operate and is sound.

2. Legal Compliance and Duty to Co-operate

- 2.1 The Inspector will first check that the Plan meets the legal requirements under s20(5)(a) and the duty to co-operate under s20(5)(c) of the PCPA, before moving on to tests for soundness.
- 2.2 The following points demonstrate what is required for a Plan to be legally compliant. You should consider whether these are met in the case of the DMB prior to making a representation on legal compliance:
- The Plan in question should be included in the current Local Development Scheme (LDS) and the key stages should have been followed. The LDS is effectively a programme of work prepared by the local planning authority (LPA), setting out the Local Development Documents (LDDs) it proposes to produce. It will set out the key stages in the production of any Plan(s) which the LPA proposes to bring forward for independent examination. If the Plan is not in the current LDS it should not have been published for representations. The LDS for Birmingham can be found on the Council's website at www.birmingham.gov.uk/LDS.

- The process of community involvement for the Plan in question should be in general accordance with the LPA's Statement of Community Involvement (SCI). The SCI sets out the LPA's strategy for involving the community in the preparation and revision of LDDs (including Plans) and the consideration of planning applications. Birmingham's SCI was adopted in 2008 and can be viewed online.
- The Plan should comply with the Town and Country Planning (Local Planning) (England) Regulations 2012 (the Regulations). On publication, the LPA must publish the documents prescribed in the Regulations, and make them available at its principal offices and on its website. The LPA must also notify the Local Plan bodies (as set out in the Regulations) and any persons who have requested to be notified.
- The LPA is required to provide a Sustainability Appraisal Report when it publishes a Plan. This should identify the process by which the Sustainability Appraisal has been carried out, and the baseline information used to inform the process and the outcomes of that process. Sustainability Appraisal is a tool for appraising policies to ensure they reflect social, environmental, and economic factors.
- The Plan must have regard to any Sustainable Community Strategy (SCS) for its area. The Local Strategic Partnership usually prepares the SCS that is representative of a range of interests in the LPA's area. The SCS is subject to consultation but not to an independent examination.

2.3 You should consider the following before making a representation on the soundness of the plan in regard to complying with the duty to co-operate (the Duty):

- The Duty came into force on 15th November 2011 and any plan submitted for examination on or after this date will be examined for compliance. LPAs will be expected to provide evidence of how they have complied with any requirements arising from the Duty.
- The Planning and Compulsory Purchase Act establishes that non-compliance with the Duty to cooperate cannot be rectified after the submission of the Plan. Therefore the Inspector has no power to recommend modifications in this regard. Where the Duty has not been complied with the Inspector has no choice but to recommend non-adoption of the Plan.

3. Soundness

3.1 Soundness is explained in paragraph 182 of the National Planning Policy Framework (NPPF). The Inspector has to be satisfied that the Plan is positively prepared, justified, effective and consistent with national policy.

- **Positively prepared** - this means that the Plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development.

- **Justified** - the Plan should be the most appropriate strategy when considered against reasonable alternatives, based on proportionate evidence.
- **Effective** - the Plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities.
- **Consistent with national policy** - the Plan should enable the delivery of sustainable development in accordance with the policies in the NPPF.

3.2 If you think the content of the Plan is not sound because it does not include a policy where it should do, you should go through the following steps before making representations:

- Is the issue with which you are concerned already covered specifically by national planning policy? If so it does not need to be included.
- Is what you are concerned with covered by any other policies in the Plan on which you are seeking to make representations, or in any other part of the Birmingham Local Plan (i.e. the Birmingham Development Plan or any of the City's Area Action Plans or Neighbourhood Plans)?
- If the policy is not covered elsewhere, in what way is the Plan unsound without the policy?
- If the Plan is unsound without the policy, what should the policy say?

4. General Advice

4.1 If you wish to make a representation seeking a modification to a Plan or part of a Plan you should make clear in what way the Plan or part of the Plan is not sound, having regard to the legal compliance, duty to cooperate and the four requirements of soundness set out above. You should try to support your representation by evidence showing why the Plan should be modified. It will be helpful if you also say precisely how you think the Plan should be modified. Representations should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further submissions based on the original representation made at publication. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.

4.2 Where there are groups who share a common view on how they wish to see a Plan modified, it would be very helpful for that group to send a single representation which represents the view, rather than for a large number of individuals to send in separate representations which repeat the same points. In such cases the group should indicate how many people it is representing and how the representation has been authorized.

5. Data Protection

5.1 The personal information that you provide as part of this representation will only be used by Birmingham City Council for the purposes of preparing this document.

6. Further Information

6.1 Further guidance on the preparation, publication and examination of Local Plans is provided in the National Planning Policy Framework (NPPF). The Planning Inspectorate also provides a publication focusing on the procedural aspects of Examinations, Procedure Guide for Local Plan Examinations (last updated July 2019).

6.2 Alternatively you can contact Planning Policy at Birmingham City Council via the following methods:

Email: planningstrategy@birmingham.gov.uk

Tel: 0121 303 4323

Post: Planning Policy Team
Planning and Development
PO Box 28
Birmingham
B1 1TU.