

21 February 2020
Delivered by email

Planning Policy
Planning and Development
Birmingham City Council
PO Box 28
1 Lancaster Circus
Birmingham
B1 1TU

Dear Sir/Madam,

DEVELOPMENT MANAGEMENT PLAN IN BIRMINGHAM DEVELOPMENT PLAN DOCUMENT - PUBLICATION VERSION CONSULTATION (REGULATION 19)

We write on behalf of our client, Oval Real Estate (hereafter referred to as "Oval"), in response to the 'Development Management in Birmingham' ("DMP") Development Plan Document – Publication Version consultation ("the Publication Version") (October 2019), particularly in the context of Oval's emerging development proposals in Digbeth.

INTRODUCTION AND BACKGROUND

Oval is the landowner of the Custard Factory, Fazeley Studios, Bond Studio and other key economic assets in Digbeth, which are collectively referred to as the 'Digbeth Estate'.

Oval is working with a dedicated project team to plan and design a major residential and commercial mixed use scheme in Digbeth ("the site"). The site is north of High Street Deritend; east of Milk Street and Barn Street; south of Digbeth Branch Canal; and west of Liverpool Street and Adderley Street, and measures approximately 18.9 hectares.

It is intended that a single hybrid planning application will be submitted by Oval in early / mid 2020 and will be comprehensively informed by a Design and Access Statement, Design Code and other technical documents. The Design Code sets out a framework for the design of all future on-plot development across the site and for consideration for that design at reserved matters stage by Birmingham City Council ("BCC").

Oval previously submitted representations to the DMP Preferred Options in March 2019, which should be referred to by BCC as part of this consultation. These representations and those submitted to the

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Birmingham
B3 2BJ

T 0121 233 0902 turley.co.uk

Preferred Options examine the emerging development management policies to ensure consistency with the Birmingham Development Plan (“BDP”) 2031 and the National Planning Policy Framework (“NPPF”) (February 2019).

DM2: AMENITY

Oval support the purpose and approach towards promoting and securing high standards of amenity when assessing development proposals.

However, it should be recognised that the appropriateness of a location for development, is identified and distributed by the support for and/or allocation of development sites in the BDP (e.g. Policy GA.1 City Centre).

Where adverse impacts on the amenity of residents and/or employees is identified, particularly in respect to those amenity features listed within Policy DM2, there is a need to demonstrate that the reduction and/or mitigation of such adverse impacts have been explored during the pre-application and determination process.

Therefore, in order for Policy DM2 to be fully consistent with paragraph 180 of the NPPF, its wording should be amended to offer flexibility in dealing with any adverse impacts on amenity. It is recommended that Policy DM2(1) is amended as follows:

“New development should seek to reduce and mitigate to a minimum potential adverse impacts on amenity features in the wider area.”

This recommendation is in accordance with paragraph 180 of the NPPF, whereas the existing wording in the Publication Version provides a more onerous restriction on new development. Paragraph 180 of the NPPF states that likely effects should be taken into account, rather than “...not result in unacceptable adverse impacts...” as currently expressed in DM2.

DM6: NOISE AND VIBRATION

Oval agree with the statement at paragraph 2.48 of the Publication Version that noise is an inherent part of everyday life and contributes to the character of different places, such as Digbeth. To this end, Oval supports the purpose of DM6 in that it will seek to mitigate the impact of new noise and vibrating generating development.

However, paragraph 2.52 of the Publication Version sets out that BCC “also has a detailed guidance note on Noise and Vibration maintained by Environmental Health”. It is unclear how BCC will apply this guidance, which is non-statutory, during the determination of planning applications and/or reserved matters. As the guidance has not been subject to public consultation and has not been tested as part of as part of the development plan process, it is recommended that only limited weight should be afforded to this guidance for decision-making.

DM10: STANDARDS FOR RESIDENTIAL DEVELOPMENT

Oval agree that the provision of the right amount and right type of housing in the right location is essential to supporting the city’s growing population and creation of sustainable neighbourhoods, as stated at paragraph 4.1 of the Publication Version.

It is also recognised that the DMP places an emphasis on ensuring a high quality residential environment to protect the health and well-being of existing and new residents, which is supported by Oval. This has in turn influenced the policy principles set out in DM10 on Nationally Described Space Standards; accessible and adaptable homes; separation distances; and adequate outlook and daylight, which are important considerations during the development management process.

It is acknowledged and welcomed by Oval that an 'exceptions test' has been included at Policy DM10(6) should a development proposal be unable to meet the development management principles set out at Policy DM10(1-5). However, it is recommended that the exception criterion is expanded to include the following considerations:

- (i) Different housing types i.e. build to rent and co-living.
- (ii) Likely economic viability.

Paragraph 8.20 of the BDP states:

"The private rented sector, where multiple units are developed and held in single ownership for long term rental, is supported by the City Council as making an important contribution to the supply of housing in the city, and meeting the needs of a mobile workforce, young professionals, households who have deferred house purchase or those who prefer to rent as a lifestyle choice. The City Council recognise the different characteristics of such developments (typically funded by large institutions or investors), including the lifetime development economics, which look to longer term returns rather than short term 'market' gains (compared to more traditional open market schemes), and will have regard to its particular characteristics during the decision making process when assessing the acceptability and viability of schemes."

To ensure the "important contribution" the build to rent sector can make to the supply of housing in Birmingham, it is recommended that this housing type is explicitly referenced in Policy DM10(6) so it's provision is not artificially suppressed by development management policies and "its particular characteristics" are duly considered in light of the Planning Practice Guidance ("PPG") [Paragraph: 011 Reference ID: 60-011-20180913].

In addition, direct reference should be made to the economic viability of residential schemes to accord with paragraph 57 and 122b of the NPPF, which state:

"...It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force."

and,

"Planning policies and decisions should support development that makes efficient use of land, taking into account... (b) local market conditions and viability"

The additional criteria for the exceptions test will provide the market with sufficient flexibility to address the local housing need whilst responding to the high quality design expectations in current and emerging guidance (e.g. the Design Guide).

CONCLUSION

Oval support the purpose of the DMP and the aim to support the strategic policies set out in the BDP, including Policy GA1 and to update the development management policies in accordance with the NPPF.

Oval trust that the information provided within these representations, particularly in relation to amenity, noise and vibration and standards for residential development are taken into consideration before the DMP DPD is submitted to the Secretary of State.

Please do not hesitate to contact me should you have any queries or wish to discuss further.

Yours faithfully

Sam Lake
Senior Planner

sam.lake@turley.co.uk

Representation Form (Part A)

Development Management in Birmingham Development Plan Document (DMB)

Publication (Reg. 19) Consultation



(For office use only)

Date Received

Date acknowledged

Ref:

How to use this Representation Form

Please complete this Part A in full. Please note that anonymous comments cannot be accepted. Then please complete a Part B form for each representation that you wish to make.

The Development Management in Birmingham DPD (DMB), including all supporting and accompanying documentation, is available to view in full online at www.birmingham.gov.uk/DMB

Representations on the Publication version of DMB can be made from **Thursday 9th January 2020 to 17:00hrs on Friday 21st February 2020**. Please note that the Council is unable to accept representations after this point.

The Council strongly recommends the use of this Representation Form for submitting any comments. This will help to ensure that any formal representations that are made are matters of relevance to the subsequent examination by the Planning Inspectorate – an Inspector will only consider issues relating to the ‘soundness’ or ‘legal compliance’ of the DMB at examination.

PART A

1. Personal Details*

** if an agent is appointed, please complete only the Title, Name and Organization boxes below but complete the full contact details of the agent in Section 2*

Title:

First Name:

Last Name:

Job title (where relevant):

Organisation (if relevant): Oval Real Estate

Address Line 1:

Address Line 2:

Town:

County:

Postcode:

Telephone:

Email address:

2. Agent Details* <i>* only complete this section if an agent has been appointed</i>	
Title: Mr	
First Name: Samuel	
Last Name: Lake	
Job title (where relevant):	
Organisation (if relevant): Turley	
Address Line 1: 9 Colmore Row	
Address Line 2:	
Town: Birmingham	County: West Midlands
Postcode: B3 2BJ	Telephone: 0121 233 0902
Email address: sam.lake@turley.co.uk	

3. Requests for Notifications	
<i>This section is for requests to be notified of progress with the DMB for those who are not submitting a formal representation. If you do submit a representation using a part B form then you will automatically be notified of all stages of the DMB and can disregard this section.</i>	
I wish to be notified of the following stages of the DMB (please tick/check all that apply):	
Submission to the Secretary of State for Communities and Local Government Y/N	Y
Publication of the Planning Inspector's Report on the Publication Version Y/N	Y
Adoption by the Council Y/N	Y

4. Declaration	
If you are submitting Part B form(s), please confirm how many:	3
Data Protection 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 DMB document.	
Declaration: I understand that any representations submitted will be made public and that my personal details will not be passed to any third parties without my prior written consent.	
Name: Samuel Lake	Date: 21/02/2020

Please ensure that you submit this form no later than **17:00hrs** on Friday 21st February 2020

Email completed forms to: planningstrategy@birmingham.gov.uk

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

Tel: 0121 303 4323

Representation Form (Part B)

Development Management in Birmingham Development Plan Document (DMB)

Publication (Reg. 19) Consultation



(For office use only)

Date Received

Date acknowledged

Ref:

How to use this Representation Form

Please complete the Part A (Personal Details) form in full.

Then, please complete this Part B form for each representation that you wish to make. It is important that you identify on this Part B form which part of the DMB (e.g. paragraph and / or policy number) on which you are making the representation. Please use a separate form for each representation that you wish to make.

PART B

1. Confirmation of Name*

** please print your name on each separate representation (the name should match that entered on the Part A form)*

Full Name: Samuel Lake

Organisation (if relevant): Turley

2. Your Representation

Important Note: For each question, please mark with an X, ONE of the available options only. Please complete a separate form for EACH of your comments. Please also refer to the accompanying guidance note for an explanation of the terms used.

Q1. Do you consider the DMB to be legally compliant?	YES	X	NO	
Q2. Do you consider the DMB to be sound?	YES		NO	X
Q3. Does the DMB comply with the Duty to Cooperate?	YES	X	NO	
Q4. Why do you believe that the DMB is NOT sound?				
a/ It is not positively prepared				
b/ It is not justified				
c/ It is not effective				
d/ It is not consistent with national policy				X
Q5. Which part of the DMB are you commenting on?				
Page Number				

Policy Number	DM2
Paragraph Number	
Table / Figure / Appendix	
Other	

Q6. Why do you feel that this part of the DMB is not legally compliant, sound or does not comply with the Duty to Cooperate?

Oval support the purpose and approach towards promoting and securing high standards of amenity when assessing development proposals.

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Q7. What changes do you consider are necessary in order to make the DMB legally compliant, or sound?

Please see our response to Q6.

Q8. If your representation is seeking a modification, do you wish to participate at the oral examination (i.e. in person at the hearing sessions rather than via written representations)?

Yes.

Q9. Are there any additional comments you would like to make with regard to the DMB?

No.

3. Declaration

Data Protection

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 DMB document.

Declaration:

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Name: Samuel Lake	Date: 21/02/2020

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Tel: 0121 303 4323

Representation Form (Part B)

Development Management in Birmingham Development Plan Document (DMB)

Publication (Reg. 19) Consultation



(For office use only)

Date Received

Date acknowledged

Ref:

How to use this Representation Form

Please complete the Part A (Personal Details) form in full.

Then, please complete this Part B form for each representation that you wish to make. It is important that you identify on this Part B form which part of the DMB (e.g. paragraph and / or policy number) on which you are making the representation. Please use a separate form for each representation that you wish to make.

PART B

1. Confirmation of Name*

** please print your name on each separate representation (the name should match that entered on the Part A form)*

Full Name: Samuel Lake

Organisation (if relevant): Turley

2. Your Representation

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Q3. Does the DMB comply with the Duty to Cooperate?	YES	X	NO	
Q4. Why do you believe that the DMB is NOT sound?				
a/ It is not positively prepared				
b/ It is not justified				
c/ It is not effective				
d/ It is not consistent with national policy				X
Q5. Which part of the DMB are you commenting on?				
Page Number				
Policy Number				DM6

Paragraph Number	
Table / Figure / Appendix	
Other	

Q6. Why do you feel that this part of the DMB is not legally compliant, sound or does not comply with the Duty to Cooperate?

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Yes.

Q9. Are there any additional comments you would like to make with regard to the DMB?

N/A

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Representation Form (Part B)

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How to use this Representation Form

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Organisation (if relevant): Turley

2. Your Representation

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Q3. Does the DMB comply with the Duty to Cooperate?	YES	X	NO	

If you have answered yes to both Q1 Q2 and Q3, please proceed to Q9. If you answered no to Q1 or Q3, please proceed to Q5. If you answered NO to Q2, then please go to Q4.

Q4. Why do you believe that the DMB is NOT sound?

a/ It is not positively prepared	
b/ It is not justified	
c/ It is not effective	
d/ It is not consistent with national policy	X

Q5. Which part of the DMB are you commenting on?

Page Number	
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Policy Number	DM10
Paragraph Number	
Table / Figure / Appendix	
Other	

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and,

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The additional criteria for the exceptions test will provide the market with sufficient flexibility to address the local housing need whilst responding to the high quality design expectations in current and emerging guidance (e.g. the Design Guide).

Q7. What changes do you consider are necessary in order to make the DMB legally compliant, or sound?

Please note: it would be helpful if you could suggest revised wording for any policy or text, being as precise as possible.

Please see our response to Q6.

Q8. If your representation is seeking a modification, do you wish to participate at the oral examination (i.e. in person at the hearing sessions rather than via written representations)?

Yes.

Q9. Are there any additional comments you would like to make with regard to the DMB?

N/A

3. Declaration

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Name: Samuel Lake

Date: 21/02/2020

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