**Development Management in Birmingham Plan Examination**

Inspector – K Ford MSc (Hons) MRTPI

Programme Officer – I Kemp

idkemp@icloud.com Tel: 07723 009166

# EXAMINATION INFORMATION NOTE

**Purpose of the Briefing Note**

1. This note provides guidance to representors on the procedural and administrative arrangements for the Development Management in Birmingham Plan (the Plan) Examination. All representors should familiarise themselves with the contents of this note, particularly those wishing to submit further statements and/or take part in the hearing sessions.

**The Role of the Inspector in the Examination**

1. I have been appointed by the Minister for Housing, Communities and Local Government to examine the soundness of the Plan and whether it meets the requirements of the Planning and Compulsory Purchase Act 2004 and associated Regulations.
2. There are 3 possible outcomes of the examination:
* The submitted Plan is sound
* The submitted Plan is not sound but could be made sound by changes (known as main modifications), if necessary following additional work
* The submitted Plan is not sound and could not be made sound by changes.
1. Following the close of the hearings I will prepare a report to Birmingham City Council (the Council) with my conclusions. My report will deal with broad issues rather than individual representations. It will be for the Council to make any arrangements for the publication of the report.

**The Programme Officer**

1. The Programme Officer (PO) for the examination is Mr Ian Kemp. For the purposes of the Examination he is working under my direction, independently of the Council. He can be contacted using the details at the head of this note.
2. The main tasks of the PO are to act as a channel of communication between all parties and me, to liaise with the parties to ensure the smooth running of the Examination, to ensure that all documents received are recorded and distributed and to run the Examination Library.
3. Copies of supporting evidence documents can be found on the Examination website at <https://www.birmingham.gov.uk/dmb/examination>. The Examination webpage is hosted on the Council’s website, but its content is controlled by the Inspector and the PO. References in brackets in this note () are to the document references in the Plan Examination Library on the website.
4. Any participant who does not have access to the internet should contact the PO so that alternative arrangements can be put in hand. Any procedural questions or other matters that you wish to raise before the hearing sessions should be made through the PO.

**Representations on the Plan**

1. The Council has prepared a Consultation Statement (CSD7) which includes details of the consultation that has taken place on the Plan, and a summary of the main issues raised in the representations. The Council has also published a document listing the representations received on the Publication version of the Plan following consultation in October 2019 (CSD6). The document also includes the Council’s response to the representations.
2. A full set of the representations made on the Plan at the Regulation 19 stage has been provided to me and I will take them all into account. The legislation does not require me to take account of any representations made at an earlier stage, including under Regulation 18.

**Timing of Hearing Sessions**

1. The draft hearing programme available with this note sets out the draft timetable and the matters to be discussed at the hearing sessions. However, the duration and timing of the sessions may be subject to change and you are advised to check the latest programme on the Examination website.
2. Apart from Tuesday 10 November 2020 when the session will start at 10:00, the hearing sessions will normally run between 09:30 and 13:00 and 14:00 and 17:00 each day. Short breaks will be taken, as appropriate. On occasion, there may be a need for flexibility on finish times to finish particular sessions. Please let the PO know as soon as possible if you have any specific needs in relation to participation in the hearing sessions.

**Participation at the Hearing Sessions**

1. Only those who have made representations seeking to change the Plan have a right to appear before, and be heard by, the Inspector.
2. If you have a right to be heard and you wish to exercise that right, you should contact the PO by **12:00 midday on Friday 16 October 2020** indicating which sessions in the draft hearings programme you wish to participate in. You must do this regardless of what you may have indicated in your original representations. Please note that if you do not contact the PO by that date, it will be assumed that you do not wish to appear and you will not be listed as a participant for the hearing discussions.
3. Representors who are not seeking changes to the Plan, including those who have made representations supporting it, do not have a right to take part in the hearings. However, I may invite additional participants to take part in hearings if their participation would assist me in determining the soundness and legal compliance of the Plan.
4. The hearings programme will be finalised as soon as possible after Friday 16 October 2020 and published on the Examination website before the start of the hearings. **Please note that it is for individual participants to check the hearings programme, either on the website or with the PO, and to ensure that they are present at the right time.** If you are unable to take part in a session for which you are listed as a participator, please let the PO know as soon as possible.
5. Written representations carry the same weight at the hearing sessions and I shall have equal regard to views put at the hearings or in writing. Participation in a hearing session will only be useful and helpful to me if you wish to take part in the discussion.

**Format of the Hearing Sessions**

1. Accompanying this note is a list of Matters, Issues and Questions (MIQs) for the examination. The MIQs will form the basis of the discussion at the hearing sessions and should be the basis on which any further written statements are prepared.
2. The hearings will be held virtually through Microsoft Teams. Further details about this will be provided to participants in due course. The hearings will take the form of a roundtable discussion which I shall lead. They will not involve the formal presentation of cases by participants or cross-examination and it will not be the place to repeat the written representations already submitted.

**Hearing Statements**

1. The Council should produce a hearing statement for each of the Main Matters listed in the MIQs. I would strongly encourage concise answers and where appropriate questions can be answered by providing reference to specific parts of the evidence.
2. Other representors who have a right to participate in the hearings can also submit further statements, but only on the questions of relevance to their original representation. However, **it is not a requirement to do so** and representors may rely on their original representations should they wish.
3. Hearing statements should be a **maximum of 3000 words** for each Main Matter. Within this limit, they should be kept as short as possible. In addition, you should ensure the following:
* Submit a separate statement for each matter being addressed
* Only answer the specific questions which are of relevance to your original representation
* Clearly identify the number(s) of the question(s) being answered
* Indicate whether any other changes are needed to make the Plan sound (providing detailed suggested wording for the change and if appropriate, any changes sought to the Policies Map).
1. **An electronic version of each hearing statement should be submitted to the PO by 12:00 midday on Friday 16 October 2020.** If you do not have access to the Internet and need to submit paper versions please contact the PO to make the necessary arrangements. Unless there are exceptional circumstances it is likely that late submissions will not be accepted.
2. Hearing statements will be posted on the Examination website, so that they are available to all participants and anyone else who wishes to read them. Because they will be available in this way, they will not be circulated directly to participants. However, anyone who is unable to access them on the website should contact the PO to make alternative arrangements for viewing.
3. Aside from these hearing statements, no other written evidence will be accepted, unless I specifically request it. The hearing sessions should not be used to introduce new evidence or arguments.

**Statements of Common Ground**

1. Statements of Common Ground, agreed between 2 or more Hearing participants, will be welcome where they would help to identify points not in (or remaining in) dispute, and so enable the Hearing to concentrate on the key issues that need further discussion.
2. At the very latest, Statements of Common Ground should be submitted by the published deadline together with the statements to which they are relevant.

**Changes to the Plan**

1. The starting point is that the Council has submitted a Plan which it considers to be sound and ready for examination. At this stage there are only 2 means by which changes can be made to the submitted Plan:
* Main modifications recommended by the Inspector
* Additional modifications made by the Council on adoption.
1. However, I can only recommend main modifications if they are necessary to resolve problems that would otherwise make the submitted Plan unsound or not legally compliant[[1]](#footnote-1). Main modifications are changes which, either alone or in combination with others, would materially alter the Plan or its policies. Any potential main modifications must be subject to consultation and further Sustainability Appraisal and assessment under the Habitats Regulations might also be needed.
2. Additional modifications are those changes which would not materially affect the policies in the Plan[[2]](#footnote-2). They are made by the Council on adoption and are also sometimes referred to as ‘minor modifications’. They are likely to include typographical errors, factual updating and consequential changes. The Council is accountable for any such changes and they do not fall within the scope of the examination[[3]](#footnote-3). My focus will be on the Main Modifications required or necessary to make the Plan sound.

**Close of the Examination**

1. The Examination will remain open until my report has been submitted to the Council. However, I will not accept any further representations or evidence after the hearing sessions have ended unless I specifically request it. Late or unsolicited material may be returned.

**Further Information**

1. Further information about the preparation and examination of Local Plans can be found in the national Planning Practice Guidance <http://planningguidance.planingportal.gov.uk/> and the [Planning Inspectorate’s Procedural Practice in the Examination of Local Plans (June 2019).](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/813316/Procedure_Guide_for_Local_Plan_Examinations_June_2019_-_Final.pdf)

Kelly Ford

INSPECTOR

1. Under section 20(7B) and (7C) of the Planning and Compulsory Purchase Act 2004 [↑](#footnote-ref-1)
2. S23(3)(b) of the Planning and Compulsory Purchase Act 2004 ‘….if the additional modifications (taken together) do not materially affect the policies….’ [↑](#footnote-ref-2)
3. 5.27 of the Procedural Practice in the Examination of Local Plans June 2016. [↑](#footnote-ref-3)