

**BIRMINGHAM DEVELOPMENT PLAN EXAMINATION**

**MATTER J: EMPLOYMENT AND WASTE PROVISION  
(BDP POLICIES TP15, TP17-19 & TP25)**

**STATEMENT ON BEHALF OF BIRMINGHAM CITY  
COUNCIL**

***Main issue: Do these policies provide a justified and effective basis for dealing with proposals for employment and waste-related development?***

**Issue 1**

**(a) Is it appropriate, and consistent with national policy, for policy TP17 to limit development on Regional Investment Sites to the uses listed in the last paragraph of the policy?**

- 1.1 The NPPF requires local authorities to support existing business sectors and to identify strategic sites for local and inward investment to meet anticipated needs over the plan period (paragraph 21). In the case of the Regional Investment Sites (RIS) these sites are intended to meet the needs of national and international investors to support the diversification and modernisation of the City's economy. The characteristics of these sites mean that they would also be attractive to logistics uses. For example the Aston RIS is located close to Junction 6 of the M6 motorway. However such uses would not support the aims of the RIS and as such it is necessary to restrict the scale of warehousing on the sites to prevent the aims of the RIS from being undermined.
- 1.2 Complementary facilities at an appropriate scale and ancillary to the main B1/B2 use of the sites are an important part of ensuring that the sites are attractive to national and international investors by ensuring the provision of facilities sought by their employees. Again it is necessary to ensure that the focus of these sites is B1/B2 to ensure that the aims of the RIS are not undermined.
- 1.3 For these reasons the Council considers that these requirements of policy TP17 are both consistent with national policy and clearly justified.

**(b) Should the policy exclude B1(a) office use?**

- 1.4 The Council does not support the exclusion of B1(a) uses from RIS. Not all office occupiers are suited to in-centre locations and occupiers looking to locate in so-called 'out-of-town' sites are consistent with and complementary to the aims of RIS. Existing examples of where B1(a) uses have been developed on RIS and have been beneficial to the overall aims of RIS to diversify and modernise the economy are Blythe Valley and Birmingham Business Park both of which are in Solihull. They have been predominantly developed for B1(a) and have been successful in attracting footloose companies who require large floorplates that are rarely available in in-centre locations and who would have likely located elsewhere in the country had the sites not been available.

**(c) Should the policy limit the sub-division of Regional Investment Sites?**

- 1.3 The Council does not support this. Setting an arbitrary minimum size of development has the potential to restrict interest from occupiers otherwise suited to achieving the aims of the RIS and would hinder the delivery of such sites. It should be noted that in the representations submitted by the Association of Black Country Authorities (bp2764) that raised this idea, there was no justification for setting the proposed minimum at a size of 4 hectares. The two RIS within Birmingham both include plots of less than this size which cannot be easily combined due to constraints caused by existing infrastructure. Other successful RIS in the region including both Blythe Valley and Birmingham Business Park have had plots developed that were smaller than 4 hectares demonstrating that plots below this size do not hinder achieving the aims of RIS.

**Issue 2**

**(a) Is it appropriate, and consistent with national policy, for policy TP18 to limit development in Core Employment Areas to the uses listed in the second paragraph of the policy?**

- 2.1 The Core Employment Areas have been identified as the focus of the City's industrial activity and contain a number of the City's major employers such as Jaguar Land Rover, Kraft, SCC and GKN. In order to ensure that the City has a sufficient supply of land for employment uses to support the needs of businesses set out in policy TP 16 the City will need to retain and recycle its limited reservoir of best and good quality employment land in employment use. The Employment Land and Office Targets Study 2013 prepared by WECD (EMP4) sets out the challenges facing the City in terms of ensuring that there is an adequate supply of employment land to meet the most likely level of demand and this indicates that when sites within the Core Employment Areas become available, there are reasonable prospects that these sites will be redeveloped for uses listed in the second paragraph of the policy. The policy sets out that these areas will also be the focus of economic regeneration activities and that measures to improve their operational and functional efficiency will be supported which will further increase their attractiveness to occupiers of the uses specified by the policy.
- 2.2 The Council therefore considers that the approach set out in this paragraph is both consistent with national policy and justified.

**(b) Should other ancillary or sui generis uses be permitted in them?**

- 2.3 With regards to ancillary uses, the City Council understands the benefits that such uses can offer employees of companies located within the Core Employment Areas. However, the Council has concerns about the level of control that can be exercised over such uses to ensure that the function of the Core Employment Areas is not undermined through an over proliferation of ancillary uses. While the RIS policy (TP17) does allow ancillary uses, both RIS benefit from more detailed site specific policies set out in their respective Area Action Plans (G2 and G5) and, given the much larger areas covered by the Core Employment Areas, it is questionable whether it is practical or feasible to prepare equally detailed policy for all of the Core Employment Areas. Where such uses are appropriate in an industrial area, the policy allows them to be considered on a case by case basis.
- 2.4 The City Council does not consider the policy as worded specifically excludes other sui generis uses in Core Employment Areas, provided that such uses are appropriate for industrial areas. The Council considers this to be a more pragmatic approach than a proscriptive list of sui generis uses and it allows the merits of each individual proposal to be considered - as even within a specific sui generis use the details of operation often differ.

**Issue 3**

**(a) Are policies TP18 and TP19 fully justified in their approach to the protection of employment land?**

- 3.1 The latest Employment Land Review (EMP2) and the Employment Land and Office Targets Study 2013 (EMP4) has identified a shortage of best and good quality employment land within the City and a need to protect good quality employment land and sites forming part of the consented supply. The study also concluded that there is some employment land in the City which is no longer suitable for ongoing employment uses due to factors such as its poor location and compatibility with other uses. These sites could be utilised for other uses without compromising the City's ability to provide jobs and foster a competitive economy and can make an important contribution to meeting any other development requirements including the City's housing requirements identified in policy PG1. As such, policies TP18 and TP19 seek to strike a balance between protecting employment land that has a reasonable prospect of being used for employment purposes, while at the same time providing a mechanism through which sites which can be demonstrated to be no longer suitable for ongoing employment uses can be brought forward for other uses

and so make a contribution to meeting the other development requirements of the City.

- 3.2 As set out in the response to issue 2 above, the Core Employment Areas have been identified as the focus of the City's industrial activity and will be supported through economic regeneration activities. Policy TP18 also includes specific support for measures to improve the operational and functional efficiency of the Core Employment Areas. Given this and the most likely demand for employment land over the plan period identified by the Employment Land and Office Targets Study 2013, sites that become available within the Core Employment Areas will have a reasonable prospect of being reused for employment purposes.
- 3.3 Policy TP19 allows sites where it can be demonstrated that there is no reasonable prospect of use for employment purposes to be used for alternative purposes in line with paragraph 22 of the NPPF. For industrial sites that can be considered non-conforming, the policy also supports change of use to alternative uses.
- 3.4 In conclusion, the evidence submitted with the plan demonstrates that there is a significant requirement for employment land to meet the development needs of the City over the plan period. As such the policies are fully justified in seeking to ensure that an adequate supply of employment land is maintained in the most appropriate locations while at the same time ensuring that there is a mechanism for land that can be demonstrated to be no longer suitable for employment to be brought forward for alternative uses and so contribute to meeting other development requirements of the City.

**(b) Should they be made more flexible?**

- 3.5 If the policies were made to be more flexible it is unlikely that an adequate supply of employment land could be maintained to meet the needs of the City's growing population and help reduce the levels of unemployment and worklessness that currently exist. The Council does not therefore support this.

**Issue 4**

**Does the reference to a Supplementary Planning Document in the second bullet point of policy TP19 comply with the Town and Country Planning (Local Planning) (England) Regulations 2012?**

- 4.1 The Loss of Industrial Land to Alternative Uses SPD (EMP1) builds upon and provides more detailed guidance on the application of the policy, which has been carried

forward substantially unchanged from the 2005 UDP. In particular it provides further guidance on how to determine when a site is no longer attractive for employment development based on marketing and viability. It also sets out further circumstances where an exception to the policy should be made. Although the SPD was adopted prior to the adoption of the NPPF the approach set out within it has been considered by Inspectors at appeal following the adoption of the NPPF and has been found to be consistent with it. The tests that it set out remain a sound basis for determining applications that propose the loss of industrial land and in the Council's view it is consistent with both the NPPF and the Town and Country Planning (Local Planning) (England) Regulations 2012.

## **Issue 5**

### **Is the requirement in the last paragraph of policy TP19 for a financial contribution justified and consistent with national policy, including in respect of its impact on viability?**

- 5.1 The requirement for a financial contribution is consistent with both the NPPF and the CIL regulations and has been secured following the adoption of the NPPF. The City Council are mindful of the need to consider viability when assessing the level of any financial contribution and as part of its validation criteria the Council requires the submission of a viability appraisal when such matters are to be considered. The Council have for many years adopted the approach that where it can be robustly demonstrated that a financial contribution would mean that a development would be unviable, then the financial contribution should not be sought. When such a position is being presented by an applicant, the City Council appoints an independent expert to confirm that the evidence provided is accurate. It should be noted that the City Council intends to adopt a CIL in 2015 and that the requirement for a separate financial contribution set out in policy TP19 will no longer apply when this has taken place.

## **Issue 6**

### **What is the significance of the "HS2 Safeguarding Zone" designation on the Policies Map for the Core Employment Area(s) which it covers?**

- 6.1 The High Speed 2 (HS2) Safeguarding Zone is a designation put in place by the Government. Safeguarding means that, except where that type of application for planning permission is exempted, LPAs must consult HS2 Ltd on any application for planning permission, or undecided applications for planning permission, which fall within the safeguarded areas for HS2. HS2 Ltd must then respond to these consultations within 21 days, or by an agreed date. If HS2 Ltd objects to a planning application and the LPA are minded to approve it, they must first notify the Secretary

of State for Transport. The Secretary of State can within 21 days then either notify the LPA that he/she has no objections to permission being granted, or issue a direction restricting the granting of planning permission for that application. The purpose of the designation being to ensure that proposed developments within this area do not negatively affect the delivery of the nationally important HS2 proposals. The designation does not necessarily mean that all of the land within the safeguarding zone will be required for the construction of HS2.

- 6.2 HS2 Ltd have committed to working with the City Council to ensure that businesses in the Birmingham area subject to relocation as a result of the proposed scheme are provided the opportunity to relocate within the Birmingham area (see paragraph 6.1 of EXAM24). It is also important to note that some of these businesses would have been likely to relocate during the plan period as part of their general business development even if the HS2 proposals were not emerging and as such it is difficult to quantify exactly the additional demand for employment land arising solely as a result of HS2.
- 6.3 It should be noted that the boundary of the HS2 Safeguarding Zone has been updated by the Secretary of State for Transport since the preparation of the Submission Policies Map (SUB4) and a modification is proposed to reflect this. Further changes to the Safeguarding Zone are possible, and so it is also suggested that Main Modification MM84 should be revised to make this clear. These suggested changes are set out below:

### **Recommended change to Policies Map**

#### **Modification**

Amend HS2 Safeguarding Zone boundary to reflect the most recent updated Safeguarding Directions issued by the Secretary of State for Transport.

#### **Reason**

In accordance with Regulation 9 of the Town and Country Planning (Local Planning) (England) Regulations 2012) as amended, Safeguarding Directions should be represented on the policies map where they are taken into account by a Local Plan. Given that the Safeguarding Directions may be updated again in the future, the City Council propose to update the policies map with the most up to date version of the Safeguarding Directions prior to undertaking public consultation following the Examination in Public.

## **Recommended change to Policy TP40 (to amend MM 84)**

### **Main Modification**

Add at the end of the rail section:

**The Council will continue to protect land within the designated HS2 Safeguarding Area. The most recently issued Safeguarding Direction at the time of the preparation of this plan is shown on the Policies Map. Further updated Safeguarding Directions, which would supersede the HS2 Safeguarding Area shown on the policies map, may be issued by the Secretary of State for Transport and will be available at <http://www.hs2.org.uk/developing-hs2/safeguarding>**

### **Reason**

To reflect the HS2 proposals and to ensure that any updated Safeguarding Directions issued after the adoption of the BDP are taken into consideration.

### **Issue 7**

#### **Should the Core Employment Area designation be removed from Ravenside Retail Park, and from Forward Park, Bagot St?**

- 7.1 The Core Employment Area designation should not be removed from Ravenside Retail Park as, given the general industrial nature of the immediate area if this site became available for redevelopment, it would be more suitable for economic development as defined in the policy. A recent example of where non-industrial land acquired by an industrial use is Jaguar Land Rover's acquisition of the former Showcase Cinema site on Chester Road (adjacent to their Castle Bromwich plant).
- 7.2 Forward Park, Bagot Street should have the Core Employment Area designation removed as proposed by main modification MM91 in the City Council's Proposed Main Modifications Schedule (EXAM2A) as planning permission has been granted for the redevelopment of this site for student accommodation.

### **Issue 8**

#### **Should policy TP15's requirements for the location of waste facilities with respect to residential development be relaxed in the case of energy-from-waste schemes?**

- 8.1 Energy-from waste schemes can vary significantly in size from major facilities such as the Council-owned Tyseley Energy from Waste plant which incinerates over 400,000 tonnes of waste per year to much smaller installations. For this reason, the Council



does not consider that a blanket exclusion for such schemes from this requirement would be appropriate.

- 8.2 The wording of the policy incorporates the word 'normally' which allows it to be applied flexibly, for example in the case of small-scale facilities aimed at meeting the needs of a particular neighbourhood. The Council does not therefore consider that any modification to the policy is required.

#### **Issue 9**

##### **Should policy TP15 seek to prevent waste facilities from locating next to other types of development, such as schools?**

- 9.1 The Council does not consider this to be necessary. The policy already requires the effect of waste management facilities on adjoining land uses to be taken into account. (see the first of the second group of bullet points). This enables any impacts on schools to be considered.

#### **Issue 10**

##### **Should policy TP15 be more ambitious in its requirements for the design of waste facilities, including provision of green infrastructure?**

- 10.1 Policy TP7 already requires green infrastructure issues to be addressed in relation to development proposals generally and policy PG3 emphasises the importance of high design standards in relation to all development. It is not considered necessary to repeat these requirements in policy TP15.

#### **Issue 11**

##### **Should the former BBGR Ltd site and Boot's opticians be excluded from the Tyseley Environmental Enterprise District?**

- 11.1 The boundary of the Tyseley Environmental Enterprise District (TEED) shown on the Policies Map reflects the boundary which was established for the purposes of securing ERDF funding for the project. The boundary differs from that of the Core Employment Area, which does not include these sites. Should these sites come forward for redevelopment, the BDP would not prevent redevelopment for an appropriate non-employment use from taking place. The Council does not therefore consider it necessary to remove these sites from the TEED.
- 11.2 The established boundary for the TEED does include some areas where redevelopment for waste treatment or management uses might not be appropriate

– for example the residential areas around Redhill Rd. In order to address this, the Council proposes a further main modification to the first bullet of the policy as follows:

The Tyseley Environmental Enterprise ~~Area-District~~ which has potential to accommodate new waste and sustainable energy technologies, including recycling, Combined Heat and Power and waste recovery, **subject to proposals being consistent with criteria set out in the second part of this policy.**

## **Issue 12**

**Are these policies effectively drafted to achieve their intended purpose and do they provide a clear indication of how a decision-maker should react to a development proposal?**

- 12.1 The policies are effectively drafted to achieve their intended purpose and they provide a clear indication of how a decision-maker should react to a development proposal by providing appropriate detail and guidance on how the types of development that they address should be considered.