

Birmingham Development Plan Examination.

Matter E. Turley response to Exam 59

% & & U H V S R Q V H W R , Q V S H F W R U . V Queries .

1. Turley and RPS have submitted representations stating that the Sustainability A
2. The basis of this is the failure of the final SA report to meet the requirements of Article 5(1), Annex 1(h) of the SEA Directive ±assessment of alternatives.
3. Birmingham City Council have issued a response to this submission (Exam 59- BCC response to

b. That Para 15 of the Forest Heath case [2011] EWHC 606 notes that a report may rely
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UHSHDW ODUJH DPRXQWV RI GDWD «

4. Para 2.10 of Exam 59 V W D W H V the fact that BCC does not consider that Option B should be reconsidered at this stage and has not regurgitated the reasons for this judgement or amended its SA does not render the SA unlawful. These matters were all clear and properly referenced in the SA reports supporting the Pre-Submission consultations at pp.A15-A20 of SUB5 with the main reasons for not pursuing Area B are set out at p.75 of PG1 (Green Belt options assessment).

5. Turley respond to these points as follows;

a. Article 5(1), Annex 1(h) of the SEA directive is clear in that the environmental report shall present D Q R X W O L Q H R I W K H U H D V R Q V I R U V H O H F W L Q J W K H D O W

b. If Para 15 of the Forest heath decision is quoted in full then it also states that the final (SA) report may rely on earlier material but must bring it together so that it is identifiable in that report. It cannot be assumed that all those potentially affected would have read all or indeed any previous reports (in the context of this claim previous environmental assessments).

c. 3 D U D D O V R V W D W E R T H A T W K E S W O R mean that when the draft plan finally decided upon by the authority and the accompanying environmental assessment are put out to consultation before the necessary examination is held there cannot have been



proviso that reasons have been given for the rejection of the alternatives, that those reasons are still valid.

- d. Para 40 of the Forest Heath Judgement is also useful;

In my (Mr Justice Collins) judgment, Mr Elvin is correct to submit that the final (SA) report accompanying the proposed Core Strategy to be put to the inspector was flawed. It was not possible for the consultees to know from it what were the reasons for rejecting any alternatives to the urban development where it was proposed or to know why the increase in residential development made no difference. The previous reports did not properly give the necessary explanations and reasons and in any event were not sufficiently summarised nor were the relevant passages identified in the final report. There was thus a failure to comply with the requirements of the Directive and so relief must be given to the claimants.

- e. We disagree with the F R X Q Statement that the reasons for rejecting Area A and B from the plan and the SA process are contained within the Green Belt Options Assessment