

Date: 23 November 2017  
My reference: 11/091/STC

Mr Matthew Neal  
Stratford-on-Avon District Council  
Elizabeth House  
Stratford-upon-Avon  
Warwickshire CV37 6HX

Dear Matthew,

**Stratford-upon-Avon Neighbourhood Development Plan 2011-2031  
Regulation 16 Consultation - Response from Qualifying Body**

I refer to the above Neighbourhood Development Plan (NDP). As you are aware I act on behalf of Stratford-upon-Avon Town Council who is the Qualifying Body (QB), and write in response to some of the consultation responses following the Regulation 16 Submission Consultation (Reg 16) carried out by Stratford-on-Avon District Council.

In the interests of expedience I intend to only refer to matters where the QB feels it appropriate to comment and do so in order to assist the Examiner in her understating of the intention of the policies and proposals within the Plan.

Where no comments are specifically made, this should not be read as an acceptance to changes or deletions to the NDP content. The QB maintains its default position as per the Submission Version of the NPD.

I would be grateful if you could forward this letter to the Examiner and any other party you feel appropriate.

If the Examiner requires further clarification on any points or a view from the QB on any specific possible change to the Plan, I would be happy to assist further by entering into a discussion.

**General Points**

Basic Conditions

It is important to note from the outset that Basic Condition (e) only requires the NDP to be in "general conformity with the strategic policies contained in the development plan".

It was established in *R. (Maynard) v Chiltern District Council* that it is wrong to consider each policy within a neighbourhood development plan examination, in the context of compliance with the strategic policies of the development plan and the NPPF, in relation to Basic Conditions a) and e), but rather it is the Plan as whole that needs to be considered in the context of such policy guidance, in terms of “general conformity”.

Similarly, in *Woodcock*, paragraph 8(2)(e) of Schedule 4B of the 1990 Act only required the LPA to consider whether the draft Neighbourhood Plan as a whole is in general conformity with the adopted Development Plan. It is not appropriate to consider whether there is a tension between one policy of the Neighbourhood Plan and one element of the Core Strategy.

**The NDP is therefore perfectly entitled to deviate from and ‘go beyond’ the non-strategic issues contained in the Core Strategy.**

Many of the comments submitted through the Reg 16 consultation seem to suggest the NDP must pass a test far greater than the Basic Conditions actually stipulate.

Similarly, just because the NPPF does not mention a topic, threshold or concept which the NDP proposes to use, it does not automatically mean it is not acceptable or fails to meet one of the Basic Conditions.

### Lack of Flexibility

Some of the contributors have criticised the NDP for a lack of flexibility and being overly prescriptive and consequently there is a fear that the policies contained therein will stifle development.

Paragraph 154 of the NPPF states:

*“Local Plans [which includes Neighbourhood Plans] should be aspirational but realistic. They should address the spatial implications of economic, social and environmental change. Local Plans should set out the opportunities for development and clear policies on what will or will not be permitted and where. Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan.”*

It is therefore important to create certainty for decision makers, developers, residents and consultees. Introducing wording to create more flexibility such as “where appropriate” or “in general accordance with” are open to significant interpretation and will be the subject of continued debate over whether the subject matter of the policy reasonably applies or not.

The use of such phrases will therefore introduce considerable inconsistency into the decision making process and is, in my opinion, lacking the necessary precision in the wording of the policy.

I would urge the Examiner to have regard to the need for precision when considering the issue of flexibility.

### Evidence Base

Some contributors have queried the evidence base underpinning the NDP. It is worth noting the advice contained in the PPG:

#### **“What evidence is needed to support a neighbourhood plan or Order?”**

While there are prescribed documents that must be submitted with a neighbourhood plan or Order there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan or the proposals in an Order.

A local planning authority should share relevant evidence, including that gathered to support its own plan-making, with a qualifying body. Further details of the type of evidence supporting a Local Plan.

Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.

In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.”

Paragraph: 040 Reference ID: 41-040-20160211

Revision date: 11 02 2016

The QB maintains that the evidence base behind the policies in the NDP fulfils the requirement to be proportionate and robust. It would be wrong for the NDP to expect to provide an evidence base as detailed and comprehensive as the Core Strategy as this would be disproportionate and unviable for the local community. If such a requirement was placed on all communities, it is unlikely that NDP's would ever exist.

### **Response to Contributors**

## SNP72 - Stratford-on-Avon District Council (SDC)

Proposals map – the QB would not object to the inclusion of the ‘white land’ to the east of Tiddington within the Strategic Gap.

Section 4 (p17) - the QB would be happy to incorporate commentary on monitoring during the plan period.

Policy H1 – the QB submits that as written the policy is in accordance with the NPPF. Almost identical wording was used in Policy H1 of the Snitterfield NDP and Policy H1 of the Bidford-on-Avon NDP. Both of these plans have passed independent examination. I am therefore unclear why SDC believe the wording in Policy H1 is contrary to the NPPF. This is clearly inconsistent with the views of other independent Examiners.

Policy H1 (maps) – to clarify, the Built up Area Boundary (BUAB) for Stratford Town was taken directly from the Core Strategy. The Core Strategy did not provide BUAB’s for Tiddington or Alveston. The proposed BUAB’s for these villages were subject to significant public consultation with residents.

The exclusion of the NFU from the BUAB is not inconsistent in the approach to defining BUAB’s in the NDP. It is predominately open land set back significantly from the Tiddington Road and makes a valuable contribution to the visual gap between Stratford and Tiddington. The principle purpose of defining a BUAB relates to housing. The NFU is of course a commercial operation.

Policy H3 – there is no obligation for the NDP to make site allocations in Alveston. The proposed BUAB provides sufficient flexibility to allow for natural organic windfall development, which Alveston has consistently seen over recent years. The QB believes that the explanation is sufficient to justify the approach taken in Policy H3.

Policy H6 – is entitled to adopt a slightly different approach than the Core Strategy. Importantly, there is no conflict with the strategic direction of the Core Strategy.

Policy H7 – is not intended to apply additional restrictions to types of accommodation. The policy deliberately does not specify property type and is therefore sufficiently flexible. Use of the words ‘at least’ and ‘no more than’ provides sufficient flexibility when rounding percentages to the nearest whole. The percentages in Policy H7 are fully justified and based on up-to-date evidence through the recent housing needs survey.

A perception that the policy has ‘limited added value’ is not a reason to amend or delete it from the NDP.

TC1 – the QB submits that Policy TC1 does not conflict with the Core Strategy (Policy CS.23) or the NPPF and is sufficiently justified under the policy explanation.

TC2 – there is commonality between the Core Strategy and the NDP in terms of what they are trying to achieve i.e. maintaining the vitality and viability of the primary shopping streets in the town centre. However, whilst the Core Strategy seeks to influence the floor area, the NDP seeks to influence the extent of frontage because it believes the visual experience of the street is more important than what goes on behind the frontages. This is adequately outlined in the policy explanation.

The QB maintains that Policy TC2 does not conflict with the strategic direction of the Core Strategy. The percentage outlined in the policy was increased following a survey of the current uses in these streets.

BE3 (explanation) – design codes are still an important part of master planning and therefore reference to them should remain.

Policy BE4 – this policy is land use based and can be applied to qualifying developments. The NPPF advocates use of Design Review Panels. The threshold in paragraph 8.22 is intended to be a guide. The qualifying criteria, as per the policy box, is whether the development is of a ‘significant or sensitive nature’ and discretion is deliberately given to the decision maker as to whether to apply the policy.

Policy BE6 – the rationale for the 40sqm threshold is explained in paragraph 8.27. The NDP is entitled to apply local design quality expectations at a certain threshold.

BE9 – the NDP once adopted will become part of the Development Plan. The Development Plan has the power to refer to supporting documents and attribute weight to them.

BE10 – the QB endorses the inclusion of a map showing the historic spine.

BE12 – the QB suggest adding the words “...in rural areas...” after ‘Buildings’ in the second sentence of the policy.

INF Project 6 – not all of the projects have an explanation. Where they are missing, the project is self-explanatory.

INF5 – if the Examiner requires it necessary, a map can be produced.

Para 11.3 – the QB believes this statement to be true and this is reflected in the survey results obtained through NDP consultation.

CLW3 –the extent and nature of the proposed LGS must be considered in the context of the district’s largest settlement and main town. The size of the proposed LGS is commensurate with the scale of the town and its setting. BID5 in the now made Bidford-on-Avon NDP (a main rural centre with a population of around 5,300 people) measured 11ha and was endorsed by the Examiner. Sites 4 and 6 are of similar size to BID5.

It is important to note that the PPG does not give any quantifiable guidance on the size and scale of LGS. The QB believes that none of the proposed LGS represent a ‘large tract of land’ given the context of each site within/on the edge of the main town which has a population of around 28,000 inhabitant.

CLW7 – the average private rear garden size for a 2 bedroom property is 40sqm (4m in width and 10m in length) and a 3 bedroom property is 60sqm (6m wide and 10m in length). Many properties enjoy a greater area of rear garden so would exceed the policy requirement. These thresholds are deemed reasonable and therefore justifiable.

Figure 13 – this is merely an aspiration and it is reasonable to look beyond the Neighbourhood Area to achieve this. The necklace runs along existing public routes.

SSB1 – the height of development in the allocation is not a strategic issue.

SSB2 – design codes are referenced in the explanation of BE3. The site area should be amended to 22ha.

#### SNP73 – Stratford District Council

Figure 2 – if the LWS designation no longer exists along the Bishopton Lane frontage then this should be removed. Clarification of when this was removed is needed.

Policy H1 – paragraph 55 houses could be added to the list. Conversions are covered in BE12.

Policy H7 – the threshold for 10% onsite provision of bungalows should relate to schemes of 20 or more “dwellinghouses” rather than ‘homes’. This will exclude the requirement for 100% flatted developments (such as SSB1?) and conversions to provide a proportion of bungalows.

Whilst the provision of bungalows may not be the only suitable form of accommodation for older generations, it is nonetheless a highly desirable type of accommodation in a district where there has been a persistent undersupply.

Policy E3 – suggest adding the words “...in principle, subject to compliance with other policies in this Plan.” to the end of the sentence in the policy box.

Policy TC10 - suggest adding the words “...in principle, subject to compliance with other policies in this Plan.” to the end of the first sentence in the policy box.

Policy BE3 – there is a requirement for outline applications to specify the number of dwellings proposed, even if this is an ‘up to’ figure so this is not unreasonable.

Policy NE3 – the QB would support the extension of this policy to all trees and hedges.

Suggest adding the words “Where appropriate...” to the beginning of the last paragraph in the policy box.

Policy CLW3 – the majority of the Welcome Hills Country Park is outside the Neighbourhood Area.

Recently provided or yet to be provided areas of POS will be assessed as part of a review of the NDP and if qualifying criteria is met, these additional sites will be included as new LGS in the future revision of the NDP.

Policy CLW8 – the QB would support the inclusion of light and ground pollution in this policy.

Where the NDP refers to Warwickshire County Council parking standards, this should be replaced with reference to ‘local parking standards’. The QB suggests that local parking standards in relation to specific developments should be considered on their own merits depending on the nature of the accommodation/ development proposed and its location within the town.

#### Additional Comments raised by SNP05 - Environment Agency

The Environment Agency has suggested a number of good amendments to the wording of the Submission Draft with respect to flooding. The QB support these proposed changes.

#### Additional Comments raised by SNP06 - Gladman Developments

For clarity, the Core Strategy is not a ‘higher order document’. Once ‘made’ the Neighbourhood Plan will form part of the Development Plan and carry the same weight as the Core Strategy.

Consultation – all consultation responses received through the Reg 14 exercise have been meticulously examined and considered over a period exceeding 12

months. The Consultation Statement clearly demonstrates this exercise. The fact that some comments have not been positively endorsed in the amended NDP does not mean they have not been considered.

Policy H1 – the concept of BUAB’s is a long-standing policy tool used to direct development towards more sustainable locations. Without BUAB’s there would be unrestricted sprawl into the countryside. The adopted Core Strategy includes BUAB’s and in deed provides the BUAB for Stratford. The NDP merely replicates this boundary.

Policy H2 – the principle and extent of the proposed Strategic Gap has been fully justified in the NDP and Appendix C of the Strategic Environmental Assessment carried out independently by Lepus Consulting on behalf of the District Council.

It is a misconceived and unsubstantiated notion to suggest that the allocation of Strategic Gaps can only be done through an adopted local plan.

On a general point, if an NDP policy takes a more restrictive approach than the NPPF or the Core Strategy, it is not automatically in breach of the Basic Conditions. The NDP is entitled to take a different or more restrictive approach to non-strategic issues.

Policy H3 – suggest changing the word “limits” to ‘identifies’. The policy is not advocating a maximum or upper limit on housing numbers.

Policy H4 – the policy does not suggest that the use of brownfield sites is prioritised over greenfield sites.

Policy H6 – this policy will be reviewed periodically and if necessary updated housing needs surveys will be commissioned to inform any changes. Development viability will always be a material planning consideration which influences each application on its own merits. The NDP does not purport to change this. The principle of a cascade approach to local connection/occupancy is tried and tested and advocated by the District Council.

Policy H7 – the housing needs survey which informed this policy is very recent. The policy is fully justified based on local evidence. This will be monitored and reviewed during the plan period.

The evidence for the requirement of a percentage of bungalows is contained in the housing needs survey. Additionally, it is a fact that the number of bungalows permitted on schemes of 20 or more dwellings in recent years has been disproportionately low (and often completely absent) compared to demand.

Policy BE6 – whilst the Written Ministerial Statement is capable of carrying significant weight, it is not policy and it does not override the Development Plan. The NDP is part of the Development Plan. The policy is justified and reasonable.

Policy BE9 – the NDP provides the policy ‘hook’ for decision makers to have regard to the SPD’s.

Policy CLW2 – each proposed LGS should be treated on its own merits with particular regard to its context, position and relationship with the settlement. Furthermore, regard should be given to the scale of the settlement when considering whether the proposed LGS is an ‘extensive tract of land’. Reference to other Examiners conclusions is not relevant and does not set a precedent.

Additional Comments raised by SNP10 - Mr and Mrs White.

It was not the intention of the QB to include private garden land in the proposed Local Green Space (although it actually appears to be a bit of land they own near their house and is used as an allotment).

The QB would be happy to amend the extent of LGS4 in Policy CLW3 to ensure that no authorised private garden is included in the proposed designation.

Additional Comments raised by SNP12 - LRM Planning on behalf of Hallam Land Management

Policy H6 and H7 - the QB does not support the introduction of the words “...in general accordance with...” into these policies. This term is not easily defined and provides ambiguity and uncertainty. It does not achieve the aim of the policy which is to maximise the delivery of smaller house types (which the evidence suggests is the need) and consequently limit the number of larger house types.

Policy NE1 – the NDP does not formally designate Bridgetown Woodland and Meadows as a Local Nature Reserve. The QB recognises that it does not have the power to do so unless the Local Planning Authority expressly delegates authority to it. Policy NE1 simply supports the notion of this important local area being designated in the future should the opportunity arise.

The area is an important area of open space and is a proposed designation under Policy CLW3. Its ecological significance is increasing all the time through appropriate management and so may qualify for designation as a Local Nature Reserve during the plan period.

Policy CLW3 – as previously mentioned, the size of LGS Site 2 is not considered to be a ‘large tract of land’ in the context of the scale of the town. The low ecological value purported by the contributor is disputed and in any case is not the only justification for inclusion as LGS. The contributor recognises that it is important as an amenity and recreation feature which is sufficient to justify designation. The Planning Practice Guidance makes it clear that public access is not a prerequisite for LGS designation.

Additional Comments raised by SNP16 - Pegasus Group on behalf of Gallagher Estates

Figure 2 – the QB believes that the Tiddington housing commitments are accurately included on Figure 2 and Figure 16. Perhaps SDC could confirm this?

Policy H2 – the area of proposed Strategic Gap does not have to have any ‘special designations’ for it to be considered suitable for inclusion as Strategic Gap.

The inclusion of Strategic Gap in the NDP does not conflict with the Core Strategy. The NDP is perfectly entitled to include this land use policy and is based on evidence from community feedback. The proposed Strategic Gap constraint will only affect a very small proportion of land around the town so will not prejudice the potential wider allocation or delivery of future housing should the need arise.

Policy H4 - the policy as worded does not suggest that the use of brownfield sites is prioritised over greenfield sites.

Policy H6 and Policy H7 – the percentages specified in this policy are within the ranges or bands specified within Policy CS.19. Therefore Policy H6 does not conflict with CS.19. The mix specified in H6 is based on local evidence (housing needs survey) and is fully justified.

Whilst the inclusion of 10% bungalows on developments over 20 dwelling houses may go beyond the Core Strategy, it does not conflict with it. Furthermore, it is not a strategic issue.

Policy BE9 - the individual documents referred to in Policy BE9 were available for public inspection during the Regulation 14 Pre-Submission Consultation. Any issues with the content of these documents could and should have been raised as part of this process and would have been taken into account when determining their suitability or need for review.

Policy CLW4 – the local planning authority have not suggested that Policy CLW4 conflicts with Policy CS.25.

SSB3 – whilst the plan has changed to clarify the allocation (commitment) the principle of including open space on the southern portion of the site most certainly has not. The Pre-Submission Consultation – May 2015 (page 122) made it very clear and stated”

“The northern part of Tiddington Fields, accommodating up to around 60 dwellings. The southern part could then be green open space of community woodland.”

The Site Allocation Plan (SAP) is still at an early stage of preparation and has not yet been subject to public consultation. It therefore carries very limited weight at this time. The SAP will consider a large number of sites around the district and there is no certainty that this site will be chosen. The suitability of this site for more housing has yet to be scrutinised, proven or approved by the community, the council or the Inspector.

The community believes that this is an important area for open space or community woodland. The site lies outside the planning permission for the 60 dwellings.

The parameters set at the outline application stage are for illustrative purposes only and are not binding. The inclusion of criterion (d) does not therefore conflict with the outline planning permission.

#### Additional Comments raised by SNP19 - Rosconn Group

Policy H2 – see previous comments. You will also be aware of the Inspectors conclusions on coalescence which contributed to the dismissal of appeal ref. 3132950 which I trust the Examiner will give consideration to when endorsing Policy H2.

#### Additional Comments raised by SNP27 - Terence O'Rourke on behalf of St Joseph Homes

Figure 14 - the QB notes the **draft** Canal Quarter Urban Design Analysis (May 2017) which was undertaken to inform the Canal Quarter Regeneration Zone Supplementary Planning Document (SPD). This SPD has yet to be prepared, consulted upon or adopted.

The QB will be involved in the consultation process and will make comments at the appropriate time. In the meantime the inclusion of a link at the point shown in Figure 14 should remain.

The QB is concerned that the Urban Design Analysis merely notes a “possible link road”. The QB believes that it should be more certain than just a possibility and is aware that the final location will be dependent on feasibility.

Policy H7 – the QB recognises that the provision of bungalows may not be appropriate for this location.

Additional Comments raised by SNP28 - Tetlow King Planning on behalf of Orbit Homes

Policy H6 - the QB is not 'increasing the thresholds' for affordable housing as set out in Policy CS.19. It merely stipulates a requirement within the Core Strategy banding which it is entitled to do based on local evidence. Furthermore, this is not a strategic issue.

Additional Comments raised by SNP30 - Turley Associates on behalf of IM Properties

Proposal SSB2 - the QB is concerned that a more flexible approach to the mix of uses on this site could undermine the delivery of the Canal Quarter Regeneration Zone. The relocation of existing businesses in this zone is dependent on them going to SSB2 so adequate provision for them must be made. If those businesses do not relocate then the Canal Quarter Regeneration Zone will not be achievable or deliverable which could undermine the whole Strategy in the Core Strategy.

For clarity and to assist the Examiner SNP52 is submitted on behalf of the Alveston Village Association and SNP61 is submitted on behalf of the Tiddington Village Residents Association.

On behalf of the QB, I would urge the Examiner to respect the wishes of the local community and positively embrace the policies contained therein, this is after all quintessentially Localism.

Yours sincerely,



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