

**A REPORT TO STRATFORD ON AVON DISTRICT COUNCIL**  
**OF THE**  
**EXAMINATION**  
**OF**  
**THE STRATFORD UPON AVON NEIGHBOURHOOD DEVELOPMENT PLAN 2011-2031**  
**UNDERTAKEN BY**  
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**INDEPENDENT EXAMINER**

**MARCH 2018**



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## **Summary and Overall Recommendation**

*As the Independent Examiner into the Stratford upon Avon Neighbourhood Development Plan, I have been requested by Stratford on Avon District Council to present my professional assessment of the Plan, in terms of its compliance with the 'Basic Conditions' as set out in extant legislation, regulations and guidance.*

*I confirm that I am independent of the Qualifying Body, namely the Stratford upon Avon Town Council and the Local Planning Authority. Furthermore, I do not have any interest in any land or property that may be affected by the Plan.*

*I hold professional qualifications and have relevant experience of the planning regime, gained over the past 28 years in both the public and private sectors, to enable an independent judgement of the documents before me. I am also a member of the National Panel of Independent Examiners Referral Service, endorsed by the Department of Communities and Local Government.*

*I have undertaken a thorough examination of the Stratford upon Avon Neighbourhood Development Plan. This has comprised a review of all documents presented to me by the Local Planning Authority, including an extensive evidence base (presented in hard and electronic copy and indexed under six sections; (1) the NDP Submission Version and Regulation 16 responses, (2) documents providing background to the Neighbourhood Area application to the LPA, (3) documentation relating to the consultation process (4) the Submission Documentation including the Basic Conditions Statement and the Consultation Statement, (5) documentation relating to the Strategic Environmental Assessment and (6) an extensive number of local background documents.*

*It is my considered opinion that, subject to modifications, the said Plan meets the Basic Conditions and human rights requirements, as set out in the respective legislation and guidance. My report presents several areas where I consider that a number of specific policies should be modified, and where some text could be amended, or illustrations improved, to make the document clearer and remove ambiguity. These modifications are **set out in bold** within the text of my report. My proposed changes have been made in such a way so as not to detract from the essence of the Plan nor its aim and ambitions, but I consider they should be taken into account before it proceeds to a Referendum.*

*Hence, subject to the recommended modifications being completed I consider that the Stratford upon Avon Neighbourhood Development Plan will; have regard to national policies and advice contained in current legislations and guidance; contribute to the achievement of sustainable development; be in general conformity with the strategic policies of the development plan for the area; not breach, but be compatible with European Union obligations and the European Convention of Human Rights; and not likely have a significant effect on a European Site or a European Offshore Marine Site either alone or in combination with other plans or projects.*

*I consider that, further to the recommended modifications, the Neighbourhood Plan complies with the legal requirements set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 and can proceed to a Referendum.*

*I have no concerns over the defined Plan area or the manner of its confirmation and consider that this area is appropriate as the extent of any Referendum.*

*Finally, I refer to a number of abbreviations throughout my Report and for the avoidance of any confusion these, are set out in Appendix A.*

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*Brooke Smith Planning – An Arcadis Company*

*March 2018*

## **1.0 INTRODUCTION**

### **1.1 NEIGHBOURHOOD PLAN REGIME**

- 1.1.1 The Neighbourhood Planning regime provides local communities with the ability to establish specific land use or planning policies which can influence how future development comes forward in their area. It not only provides the opportunity for local people to shape their locality, it also provides guidance for developers and landowners when considering new proposals.
- 1.1.2 Any Neighbourhood Plan should therefore be clear not only in its goals and ambitions but also in how any policies are presented. The background behind how policies have emerged should be easy to understand and robust in terms of justification.
- 1.1.3 This Report provides the findings of an Examination into the Stratford upon Avon Neighbourhood Plan, which is hereafter referred to as the Plan or the Neighbourhood Development Plan.
- 1.1.4 The Plan was prepared by the Stratford upon Avon Town Council, working in consultation with the Local Planning Authority, namely Stratford on Avon District Council and a range of interested parties, statutory bodies, community groups, landowners and other key stakeholders.
- 1.1.5 This Report provides a recommendation as to proceeding to a Referendum. If this took place and the Plan was endorsed by more than 50% of votes cast, then it would be 'made' by Stratford on Avon District Council and would be used to assist in the determination of any subsequent planning applications.

### **1.2 APPOINTMENT AND ROLE OF THE INDEPENDENT EXAMINER**

- 1.2.1 In accordance with current regulations, I was approached by Stratford on Avon District Council, as the Examiner of the Neighbourhood Plan in 2016 and formally appointed in 2017. I was issued with the relevant documentation and formally began the examination in September 2017. My role has been to consider whether the Plan meets the 'Basic Conditions' and human rights requirements, as set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to Neighbourhood Plans by section 38A of the Planning and Compulsory Purchase Act 2004.
- 1.2.2 In order to meet the Basic Conditions, the making of any Neighbourhood Plan must:
- *Have regard to national policies and advice contained in guidance issued by the Secretary of State;*
  - *Contribute to the achievement of sustainable development;*

- *Be in general conformity with the strategic policies of the development plan for the area; and*
- *Not breach, and must be otherwise compatible with, European Union (EU) and European Convention on Human Rights (ECHR) obligations.*

1.2.3 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out a further basic condition for Neighbourhood Plans, in addition to those set out in primary legislation and referred to in the paragraph above;

- *The making of the Neighbourhood Plan is not likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) either alone or in combination with other plans or projects.*

1.2.4 In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, (TCPA) to establish whether:

- *The Neighbourhood Plan has been prepared and submitted for examination by a Qualifying Body.*
- *The Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the TCPA as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (PCPA).*
- *The Neighbourhood Plan meets the requirements of Section 38B of the PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area).*
- *The policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the PCPA.*

1.2.5 Having examined the Plan against the Basic Conditions, as set out above, and as the Independent Examiner, I am required to make one of the following recommendations:

*a) that the Plan should proceed to Referendum, on the basis that it meets all legal requirements;*

*b) that the Plan should be subject to modification but will then meet all relevant legal requirements and should proceed to Referendum;*

*c) that the Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.*

- 1.2.6 If recommending that the Plan should go forward to Referendum, I am also required to consider whether or not the Referendum Area should extend beyond the defined Stratford upon Avon Neighbourhood Development Plan Area.
- 1.2.7 As noted above, the role of any Independent Examiner is to assess a Plan in terms of compliance with the Basic Conditions. While it is not to specifically comment on whether the Plan is sound, I consider that where changes can be made that would result in removing ambiguity and make the document more user friendly for all parties, this should be considered. This reflects paragraph 41 of the PPG and the first basic condition.
- 1.2.8 I have adopted this approach and have suggested several modifications which the Town and District Council should consider and which, in my opinion, need to be addressed for the Plan to be compliant.

### 1.3 THE EXAMINATION PROCESS

- 1.3.1 It is advised that Neighbourhood Plan examinations should proceed without a public hearing i.e. by written representations only, unless the Examiner considers it necessary to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case. In such cases, a public hearing may be held.
- 1.3.2 A public hearing provides for the Independent Examiner to further consider matters against the Basic Conditions, as set out earlier in this report. It is specific to neighbourhood planning and is different to a planning inquiry, an examination in public or a planning appeal hearing. Invited parties are asked to consider specific parts of the Plan in more depth and to clarify points made during consultation.
- 1.3.3 In this case and further to review and consideration of all the evidence before me, I was able to consider the Plan by way of the key documents, salient background information, supporting reports and written representations. I did not consider it necessary to hold a Hearing to complete my findings.
- 1.3.4 My examination findings reflect the documents noted above and the written submissions from interested parties and are in addition to my review of the following documents which set out extant legislation, regulation and guidance;
- National Planning Policy Framework (The Framework) (2012)
  - Town and Country Planning Act 1990 (as amended)
  - The Planning and Compulsory Purchase Act 2004 (as amended)
  - The Localism Act (2011)
  - The Neighbourhood Planning (General) Regulations (2012) and additions

- The Neighbourhood Planning Act 2017 and associated guidance and regulations.
- 1.3.5 Finally, I confirm that I undertook a series of unaccompanied site visits to the Plan area in September and October 2017 and January 2018.



## **2.0 BACKGROUND TO THE STRATFORD UPON AVON NEIGHBOURHOOD DEVELOPMENT PLAN**

- 2.1. I am advised that a Neighbourhood Plan Steering Group was established by the Town Council, the Qualifying Body, in May 2011 and, with assistance from consultants, engaged with the community and stakeholders with respect to the geographical extent of the NDP. A series of Working Parties were established to address key land use, heritage, economic, tourism issues and to consider the perspective of different groups and ages within the community, to assist in addressing the vision for the area.
- 2.2. Stratford on Avon District Council confirmed Stratford upon Avon Town Council as the relevant body in 2013 following a formal application and the NDP area comprising the parishes of Stratford-upon-Avon and the former parish of Old Stratford and Drayton (which has recently been the subject of redistribution into adjacent parishes), was confirmed in May 2013. This area was not the subject of any other NDP proposal.
- 2.3. Subsequent to community consultation, a draft version of the Plan was prepared and was the subject of a Strategic Environmental Assessment (SEA) screening by Stratford on Avon District Council in March 2013. An SEA was subsequently prepared and I comment on this later in this report.
- 2.4. The consultation background to the Plan is set out in the Consultation Statement (April 2017). I note that a number of different forms of community liaison with appropriate local parties and statutory parties, were adopted and the consultation activity was extensive.
- 2.5. The Consultation Statement summarises the process and stages undertaken by the QB. Accompanying evidence presented to matters identifies the issues raised by all parties together with the subsequent response from the QB, whether this be agreement to issues or justification for cases of disagreement to representation comments. I find the evidence and Consultation Statement to be well presented and clear.
- 2.6. The Plan was subject to changes as a result of the consultation process and a Submission Version was duly prepared and submitted to the District Council. After a formal period of public consultation, it was confirmed that the Plan could proceed to Examination, in September 2017. Representation to the Submission Version of the Plan were received from 73 parties, known as the Regulation 16 representations. Some of these parties had made previous representations. I note that few matters were raised over and above those raised previously. I have reviewed the comments made and find that while some support the approach and policies within the NDP, others have made strong objections or have presented amendments to the proposed policies.

- 2.7 In the late Autumn of 2017, the QB issued a rebuttal to some of the matters raised by some Regulation 16 parties. This rebuttal was made public via the LPA web site and further comments from the Regulation 16 parties were invited. For the avoidance of doubt, I have considered all comments raised in response to the Submission Version of the Plan, the response issued by the QB and the subsequent submissions made by Regulation 16 parties. I consider that the points made are either addressed within this report or raise issues that do not warrant modifications to the NDP proposals.

### **3.0 COMPLIANCE WITH MATTERS OTHER THAN THE BASIC CONDITIONS AND HUMAN RIGHTS**

3.1 Given the above, I now report on the procedural tests, as set out earlier in this Report, and find as follows;

- **The Qualifying Body**

3.2 From the documentation before me, I conclude that the Stratford upon Avon Town Council is a properly constituted body, i.e. a Qualifying Body for the purposes of preparing a Neighbourhood Plan, in accordance with the aims of neighbourhood planning as set out in the Localism Act (2011) and recognised in the National Planning Policy Framework (2012). Accordingly, I find this addresses the necessary requirements.

- **The Plan Area**

3.3 The Stratford upon Avon Neighbourhood Area reflects the boundary of the Stratford upon Avon Parish area. No other Neighbourhood Plan has been proposed for this area.

3.4 An appropriately made application was submitted to the District Council and duly endorsed. The appropriate protocol and process were followed. I am satisfied this meets the requirement relating to the purposes and identification of a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended) and salient regulations of the Neighbourhood Planning (General) Regulations 2012.

- **The Plan Period**

3.5 Any neighbourhood plan must specify the period during which it is to have effect. The Stratford upon Avon Neighbourhood Plan clearly states on its front cover and in its introductory sections that it addresses the period between 2011 and 2031. I note that this reflects the plan period covered by the Stratford on Avon District Core Strategy (adopted in July 2016). I am satisfied that this matter is clear and hence meets the statutory requirement.

- **Excluded Development**

3.6 From my review of all documents before me, the proposed policies within the NDP do not relate to any of the categories of excluded development, as defined by statute and extant regulations, or to matters outside the Neighbourhood Area. While I find there are some areas which would benefit from improved clarity and I note these later in this report, in terms of the proposed policies, I find that the Plan meets legal requirements.

- **Development and use of land**

3.7 Any Neighbourhood Plan's policies, in accordance with current regulations, should only contain policies relating to development and/or use of land. While supporting text can reflect the goals and ambitions of any community, unless directly relating to development or use of land, this should not be included within or confused with specific policies.

3.8 I note that in Section 1 of the NDP, reference is made to projects that are highlighted through the Plan in 'green boxes' and which reflect activities or initiatives that will be pursued by the Town Council, but which are not specific policies under the Neighbourhood Plan. Given this explanation at the start of the document, I find this an acceptable approach. I stress, however, that where I consider that a policy or part of a policy is ambiguous or relates to matters that do not relate to the development or use of land or property, I have recommended that it be modified or clearly explained as such within the text of the document.

3.9 In general the Plan complies with the regulations on this matter although I have suggested some modification where necessary. These are set out in Section 5 of this Report.

- **Public Consultation**

3.10 Planning legislation requires public consultation to take place on the production of neighbourhood plans. Any public consultation should be open and accessible and any information presented should be easy to understand and to comment upon. It should enable all sectors of the local community the ability to comment on and hence shape the policies which may have bearing on where they live, work or spend their leisure time.

3.11 I have reviewed the Consultation Statement and the substantial supporting documentation prepared and used by the QB. As a requirement of the salient

regulations of the Neighbourhood Planning (General) Regulations 2012, this was submitted to the District Council and then presented to me.

- 3.12 I am of the opinion that the consultation exercise was extensive and thorough and as wide a spectrum of the community as possible was approached through a range of initiatives. All stakeholders including statutory bodies appear to have been given the opportunity to take part in proceedings.
- 3.13 I have reviewed all salient surveys and documents relating to the consultation work undertaken by the QB and consider that the various initiatives and the general approach adopted was extensive, inclusive and robust.
- 3.14 I note the concerns raised by one Regulation 16 consultee that its representations at the draft stage of proceedings did not appear to have been reviewed by the QB. I have reviewed the submissions made and am of the opinion that the representations were reiterated in subsequent submissions by that party and have been taken into account. For the avoidance of continued concern, the matters raised by this party have been fully assessed as part of my examination.
- 3.15 In general I consider that the response to representations made to the Plan as it progressed through its draft stages were clear and an appropriate approach has been taken. While my role has not been to undertake a detailed analysis of the consultation details but moreover review the general process and approach taken, I believe changes to the draft version of the NDP were appropriately undertaken and explained.
- 3.16 As I have noted above, further to the publication of the Submission Version of the NDP, and the publication of Regulation 16 comments, a rebuttal response was issued by the QB to some of the matters raised by the Regulation 16 parties. This response was issued to District Council and then presented to me, as the Examiner and made publicly available via the LPA web site. One Regulation 16 party subsequently called for a further period of consultation. I agreed that as the QB had commented on the Regulation 16 comments, it was appropriate to give those parties a further period of comment (January 2018). I can confirm that I have considered all the submissions made.
- 3.17 As noted elsewhere in this Report, I did not feel it necessary to hold a public hearing as the comments made by Regulation 16 parties and the stance of the LPA and QB was clear and no issues were ambiguous.
- 3.18 I conclude that an appropriate consultation exercise was undertaken and that stakeholders had the opportunity to input into the Plan's preparation and as such, Regulation 15 and 16 has been addressed.

## 4.0 THE BASIC CONDITIONS AND HUMAN RIGHTS

### 4.1 BASIC CONDITIONS STATEMENT

- 4.1.1 I have reviewed the Basic Conditions Statement (dated April 2017) and find it to be a comprehensive and well written document. It addresses the Basic Conditions in a clear and logical manner and I highlight these as follows;

### 4.2 NATIONAL POLICY, ADVICE AND GUIDANCE

- 4.2.1 As noted earlier, the NPPF (2012) explains that a presumption in favour of sustainable development means that Neighbourhood Plans should support the strategic development needs set out in Local Plans and plan positively to support local development.
- 4.2.2 The Framework is clear that Neighbourhood Plans should be aligned with the strategic needs and priorities of the wider local area, i.e. they must be in general conformity with the strategic policies of the development plan. The NPPF advises that they should not promote less development than is set out in the Local Plan or undermine its strategic policies. Neighbourhood Plans should provide a practical framework within which decisions on planning applications can be made with predictability and efficiency. It is stressed that the the examination has been of the Plan, as a whole.
- 4.2.3 The Basic Conditions Statement clearly explains how the NDP responds to specific core planning principles, as set out in the NPPF and makes appropriate cross reference to specific NDP policies.
- 4.2.4 Given the guidance found within Planning Practice Guidance (PPG) (April 2014 and amendments) which accompanies the NPPF, I have considered the extent to which the NDP meets this first basic condition in Section 5 below. **Subject to some modifications, detailed below in Section 5 of this report, I find the Plan compliant.**

### 4.3 SUSTAINABLE DEVELOPMENT

- 4.3.1 Any Neighbourhood Plan should contribute to the achievement of sustainable development. The NPPF explains that there are three dimensions to sustainable development: economic, social and environmental. I consider that the approach taken in the Basic Conditions Statement is robust.
- 4.3.2 Whilst there is no legal requirement for any Plan to be accompanied by a separate Sustainability Appraisal, it is helpful for it to acknowledge and explain how its policies

have reflected sustainability matters in all forms as expressed in the NPPF. I consider that the NDP has achieved this.

#### **4.4 THE DEVELOPMENT PLAN AND STRATEGIC LOCAL POLICY**

4.4.1 I note that the 'Development Plan' for Stratford upon Avon Neighbourhood Area comprises the Stratford on Avon District Core Strategy (2011-2031) which was adopted in July 2016. I am also aware that the Development Plan also comprises policies of the Waste Core Strategy for Warwickshire (2013) and policies from the County Minerals Plan, currently being revised.

4.4.2 While no reference is made of the latter two documents, Section 4 of the Basic Conditions Statement presents a clear matrix of how the proposed NDP policies are in general conformity with Core Strategy policies. It would be important to add a reference to the Waste Core Strategy and Minerals Plan, as these complete the full suite of the Development Plans for the area, and to explain in the Basic Conditions Statement, if applicable, that complicity has been achieved. Other than this I find the document well written and clear. It presents an appropriate context for the proposed NDP policies.

4.4.3 **Further to an additional reference to the Waste Core Strategy and the County Minerals Plan in the Basic Conditions Statement, and the minor modifications as set out later in this report, I find that the NDP policies are in general conformity with the relevant strategic policies of the Development Plan.**

#### **4.5 EUROPEAN UNION (EU) OBLIGATIONS AND CONVENTIONS**

4.5.1 Any Neighbourhood Plan must be compatible with European Union (EU) obligations, as incorporated into UK law, to be legally compliant.

##### **- Strategic Environment Assessment**

4.5.2 Directive 2001/42/EC, often referred to as the Strategic Environment Assessment (SEA) Directive, relates to the assessment of the effects of certain plans and programmes on the environment, and has relevance here. Similarly, Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (referred to as the Habitats and Wild Birds Directives respectively) aim to protect and improve Europe's most important habitats and species and can have bearing on neighbourhood plans.

- 4.5.3 I note that in 2013, a screening opinion was undertaken of a draft of the NDP. The LPA confirmed that a SEA was required and following a Scoping Report in January 2014, and consultation with relevant parties, that subsequently an SEA was prepared and issued in March 2017.
- 4.5.4 I am aware of various legal challenges to SEAs across England and the respective judgements passed down and have taken particular regard to how the Stratford upon Avon NDP was screened, scoped and an SEA then compiled given the proposed policies within the NDP.
- 4.5.5 I am of the opinion that the relevant work was undertaken professionally and alternative proposals were assessed. I am also aware that the final SEA has been assessed by the LPA and deemed acceptable. I have reviewed the SEA and concur that it has appropriately assessed environmental, social and economic effects.
- 4.5.6 Hence I find that the Plan meets the legal requirements of the EU's SEA Directive and conclude that in respect of this EU obligation, the Plan is compliant.

- **Habitat Regulations**

- 4.5.7 A Habitat Regulations Assessment screening was also prepared in respect to the Draft Plan but a full assessment was not deemed necessary by the LPA providing appropriate cross reference was made in the NDP to relevant Core Strategy policies.
- 4.5.8 I note that an Environmental Impact Assessment was not considered a requirement as the proposals within the NDP do not fall under the current remit of the EIA Directive.
- 4.5.9 I concur with this point and find that the NDP meets the legal requirements of the EU and HRA Regulations and conclude that in this respect the Plan is compliant.

- **Human Rights**

- 4.5.10 The Basic Conditions Statement makes very brief reference to compliance with the ECHR and Human Rights Act 1998.
- 4.5.11 I am unaware of any matters proposed in the NDP that challenges issues of human rights and no evidence has been put forward through the public consultation period, and extended period inviting additional comments from the Regulation 16 parties, to demonstrate that this is not the case. I conclude that the Plan does not breach and is otherwise compatible with the ECHR.



4.5.12 I am not aware of any other European Directives which apply to this particular Neighbourhood Plan, and hence am satisfied that the Plan is compatible with EU obligations.

## 5.0 ASSESSMENT OF THE STRATFORD UPON AVON NEIGHBOURHOOD DEVELOPMENT PLAN POLICIES

### 5.1 OVERVIEW

5.1.1 The evolution of, and future vision for Stratford upon Avon NDP is set out in Sections 3 and 4 of the Plan. These acknowledge that the future development of the main town and two smaller settlements of Tiddington and Alveston, in terms of new housing, is presented in the context of the Core Strategy. Given extant commitments and completions at the publication of the Submission Version of the NDP, it advises that circa 1100 additional dwellings need to be provided across the town and the two smaller settlements. This 'growth' issue is reflected as part of the overall vision for the Plan area which also addresses the character and history of the area, together with support for the town's local and tourist economy.

5.1.2 This is the context within which the policies of the NDP have been prepared. While I appreciate that there is a clear style in the presentation and drafting of the NDP, the document might be improved if Section 4 could also set the scene of the subsequent 7 policy sections of the Plan which address; Development Strategy and Housing; Employment; Town Centre; Built Environment and Design; Natural Environment; Infrastructure; Community, Leisure and Wellbeing. It could also then explain that Section 12 addresses site specific briefs.

5.1.3 In terms of evidence to support the NDP, I have been provided with a substantial amount of background information and a comprehensive evidence base that has been used by the QB to prepare draft policies to address the vision of the NDP. I find this to be proportionate and sufficiently robust. **However, I consider that a list of the evidence base, i.e. key documents and surveys with dates should be included within the Appendices of the Plan. This would provide some comfort to any reader of the document that a robust evidence base supports the policies.**

5.1.4 Cross reference to the evidence base is lacking in places through the Plan. While I am aware of its existence and have reviewed the evidence as it has been presented to me, where I feel that specific cross reference is required to make the Plan clearer and to avoid ambiguity, I have commented accordingly.

5.1.5 Further to the above, I now consider the Neighbourhood Plan against the Basic Conditions and for ease of reference follow the structure and headings as adopted in the Plan. As I have set out above, I find that the Plan is generally compliant with Basic Conditions 4 and 5 but that the following section highlights modification which I consider would allow the Plan to fully comply with;

- Basic Condition 1 (Compliance with National Policy);
- Basic Condition 2 (Delivery of Sustainable Development); and

- Basic Condition 3 (General Conformity with the Development Plan).

5.1.6 I wish to stress that my examination has comprised a review of the policies and supporting text in the context of their compliance with the Basic Conditions. It has not comprised a forensic review of the rationale behind each policy. However, where I am aware that the evidence base has been poorly or erroneously interpreted or proposals have been suggested that conflict with extant statute or are ultra vires, then these are highlighted.

5.1.7 I confirm again that I have reviewed all comments made as part of the Regulation 16 process, particularly where they have raised matters relating to compliance with national policy, sustainability and general conformity with the strategic policies of the Development Plan.

5.1.8 I consider that some modifications are required for the Plan to comply with the Basic Conditions. In places, this has resulted in changes to specific policies. I wish to emphasise that wherever possible these have been made to complement the tone and language of the Plan.

## **5.2 THE OVERALL PRESENTATION AND FORM OF THE PLAN**

5.2.1 The NPPF advises that plans should provide a practical basis within which decisions on planning applications can be made with a high degree of predictability and efficiency. I consider that this can be interpreted as 'having a clear document'. I find the Stratford upon Avon Neighbourhood Plan is extensive but straightforward, well written and generally well explained and expressed. However, several matters could be addressed which would enable it to be clearer for any user and remove ambiguity. I comment on these below.

5.2.2 I consider that the introductory sections of the NDP – notwithstanding my suggestion regarding the opening text of Chapter 4 - setting the context in terms of geography and policy are well written and the vision, objectives and strategy of the Plan are clearly expressed.

5.2.3 I am aware that some Regulation 16 parties have suggested additional initiatives and proposals that are not covered in the Submission Draft NDP such as the provision of housing for young adults or people with disabilities. Other submissions refer to some of the aspirational projects identified in green boxes. I comment elsewhere on the aspirational projects but should stress that it is not the role of the Examiner to add further areas or policies that may have been considered by the QB through the Plan preparation, but not included in the Submission Version.

5.2.4 One exception to this relates to flooding. Given the findings of the SEA and the reference to flooding therein, I have proposed modifications to some relevant

policies and supporting text. This reflects the stance of the Environment Agency and have been accepted by the QB. I consider these elements are compliant with the Basic Conditions and accordingly, I advise that the following modifications are made;

- **para 3.9; 'Stratford upon Avon is at risk of flooding. New development within the identified floodplain and any new development or works to the River Avon should assist in reducing the risk of flooding'**

- **para 4.1; 'The Neighbourhood Area will be greener with the addition of appropriate landscaping; green corridors linking the built-up areas to the adjacent countryside, and appropriate blue infrastructure which can restore and enhance waterways and sustainably manage water'**

5.2.5 I am content with the general extent and nature of Figures and Tables within the NDP and consider these have been well referenced through the Plan. However, I note some typographical errors and anomalies on the Proposals Map (Fig 2) and advise that the following need clarification and where necessary amendments made;

- **Figure 2 should be fully titled as The Proposals Map and should be of a size to properly and clearly identify the whole of the NDP area. In its current form (and when printed at A2 size) parts of the periphery of the area is omitted.**

- **The Local Wildlife Site designation in Bishopton Lane has been queried by a Regulation 16 party. This should be clarified as a matter of fact by the LPA and if found to be erroneous, amended on the Proposals Map.**

- **Fig 15 should accurately replicate Core Strategy Policy SUA.2/SSB2 to avoid confusion**

- **There should be consistency between the Proposals Map (Fig 2) and other maps within the NDP including Fig 16. The latter indicates an existing housing commitment. While this may not be a Core Strategy Allocation, it is helpful to illustrate all committed housing development across the Plan area. It would also help the reader when considering Policy H3 in that it refers to the Proposals Map and housing commitments. This matter should be addressed by the LPA.**

- **Fig 17 identifies a Built Up Area Boundary (BUAB) around Alveston but this appears to unnecessarily sever garden land to the rear of property at Hillside. This should be rectified and the land in question included within the BUAB.**

- **The List of Figures would be better positioned to follow the Contents page**

- **Correct the title of Objective C on page 7 to reflect the content of the NDP**

- **Correct the title of Policy SSB2 on page 8 to reflect the content of the NDP**

- **Para 2.1 should refer to neighbourhood area, as opposed to 'district'**

- **Employment sites referenced within paras 6.8 and 6.9 should be identified on a suitable map. Clifford Park Business Park should be noted as lying beyond the NDP area.**

5.2.6 In order to present a robust and unambiguous Plan and hence be compliant with the first Basic Condition, and to reflect some of the issues raised during its preparation, I now turn to Sections 5 to 12 of the Plan and highlight specific policies and supporting text, that I consider require modification to remove ambiguity and ensure compliance.

5.2.7 I should stress that I consider that generally the policies are well constructed and clear. While some add little to the Core Strategy policies, I consider however that a small number of these are accompanied by relevant supporting text and provide a useful context for the overall vision of the Plan. They do not breach the Basic Conditions and accordingly, I have accepted that they should remain in the NDP. Other policies, that add little to the Core Strategy policies and where appropriate context has been presented elsewhere in the NDP, are suggested to be omitted.

5.2.8 As noted above and reiterated below, I note the inclusion of aspirational initiatives, demarked in green boxes within the text of the NDP. These have not been assessed as formal policies and **I suggest that improved explanation / annotation that these are aspirational matters, should be included whenever they arise in the document.**

### **5.3 NDP Policies**

#### **Development Strategy and Housing;**

5.3.1 I am aware that the Core Strategy confirms Stratford upon Avon as the primary settlement for the District and CS policies advise that the town is to be the location for much of the housing growth through the Plan period. **The housing allocation for the Town is referenced in para 3.9. This should be noted a 'minimum' and not as a target.**

5.3.2 I note that this growth could either be specifically identified through the NDP or the matter deferred to the LPA through the preparation of a Site Allocations DPD. This clearly is at the discretion of the QB and I can understand that in this situation the QB has decided on the latter approach given that a Site Allocations DPD process was being planned by the LPA.

5.3.3 This means that the concern raised by various Regulation 16 parties as to specific residential allocations and the ramifications for the Strategic Environmental

Assessment, are understandable, but are not of sufficient validity to result in the Plan being deemed non-compliant on development site allocation matters.

- 5.3.4 I do note, however, the absence of any specific policies addressing flooding. As I note above, I concur with the EA and consider that the addition of relevant text to some of the proposed policies and supporting text would not detract from the tone or overall vision of the NDP. **As such I suggest that the introductory text to Section 5 of the NDP includes;**

***Development within areas identified as Flood Zone 3 will be resisted unless a deliverable strategy is presented that will reduce flood risk to the site in question and wider community***

***Any land identified for flood risk management, by the Environment Agency, or equivalent statutory body holding similar such powers, will be safeguarded from new development, unless exceptional circumstances are presented.***

#### **Policy H1**

- 5.3.5 This policy refers to support for new housing within built up area boundaries (BUABs). While such a boundary has been set in the Core Strategy for Stratford upon Avon, the proposed boundaries for Tiddington and Alveston have been proposed by the QB following consultation with stakeholders.
- 5.3.6 I note that the QB, reflecting a high proportion of the community wish to have a defined boundary set. I consider that a BUAB for any settlement should be consistent in terms of the manner by which it is set and that it should not be unduly restrictive.
- 5.3.7 I have reviewed the rationale for the BUAB around Stratford upon Avon and note that it is sufficiently endorsed within the Core Strategy. The proposition by some Regulation 16 parties to remove it would therefore conflict with the Development Plan. As a boundary is in place for the main town, I accept the rationale to propose a BUAB around the two smaller settlements.
- 5.3.8 **However, I consider that poor reference has been made to exceptions to the policy H1.** This is important, given Strategic Policy AS.10 within the Core Strategy. **As such reference should be made to conversion of property and to construction of houses of exceptional design (para 55 of the NPPF). Appropriate development of brownfield land beyond any BUAB should also be accepted – which would also accord with NDP Policy H4.**
- 5.3.9 While the BUAB around Tiddington could have included the NFU property, this would mean that an area of open land is included. I am aware of the salient appeal

decisions and have additionally reviewed the findings of the SEA which also comments on land identified as strategic gaps. While I consider that other NDP policies might provide suitable guidance to the potential development of all or part of the strategic gap, I consider that the QB can identify such an area and on balance, the boundary around Tiddington, as proposed on Figure 2, is justified.

- 5.3.10 However, I note the representation regarding the alignment of the Alveston BUAB and that some Regulation 16 parties consider it is too restrictive. I have reviewed the evidence base and consider that the wording of Policy H1 would allow for flexibility, as a 5 years housing land supply is reviewed by the LPA, if the following modification is made to the last paragraph;

***If during the Neighbourhood Plan period, the strategic housing allocation for the Plan area increases, any new residential development should be located to make the best use of existing infrastructure or new infrastructure to accompany the new residential units.***

- 5.3.11 The supporting explanatory text should also include reference to **any development that is required, subsequent to a future housing needs assessment and that this should be located to make best use of public transport and highways that have capacity or potential to serve the new development.**
- 5.3.12 The Alveston BUAB unnecessarily cuts through land at Hillside and **I concur that it should be redrawn to enclose the entire domestic garden within the built-up area.**
- 5.3.13 This is a minor alternation and I consider that this would not affect the Strategic Environmental Assessment findings.

### **Policy H2**

- 5.3.14 I have reviewed the evidence and Regulation 16 comments made with respect to the principle of strategic gaps and consider that the QB can propose such areas within the NDP.
- 5.3.15 While I endorse the identification of the strategic gaps between Stratford, Tiddington and Alveston and consider that they are reasonably clear on the Proposals Map (Figure 2), the aerial photograph at Figure 3 is difficult to orientate for anyone not cognisant with the area. **Modifications should be made so this is better annotated with road names and a compass north sign.**

### **Policy H3**

- 5.3.16 Tiddington is a Category 1 village as defined in the Core Strategy and is expected to accommodate a share of new houses. Alveston, as a Category 4 village, carries less

pressure for new growth. I note the concern raised by some Regulation 16 parties over a perceived limit on housing numbers and **advise that the accompanying text in para 5.19 and 5.20 is modified to replace 'limits' and 'provides for up to' with 'identifies at least' and to remove the reference to 'no minimum'.**

5.3.17 I have reviewed the evidence presented and am content that sufficient opportunity lies within the Alveston BUAB to address currently identified housing needs and that to support any further housing needs (identified through the Plan period by the LPA as part of a review to support a 5-year land supply), Policy H1, as amended above, is appropriate.

5.3.18 **However, I consider that the accompanying text to Policy H3 should either clarify a definition or provide a cross reference to 'windfall'.**

5.3.19 **The last two sentences of Para 5.20 should also be modified as follows;**

*The position of this Neighbourhood Plan is therefore to support appropriate windfall development within the built-up areas boundary of Alveston and Tiddington. A further review of the District's 5-year housing supply may result in a need for additional housing land, when the BUAB for the two settlements will be reviewed.*

#### **Policy H4**

5.3.20 I concur with the EA and other Regulation 16 parties and advise that a further bullet point is added to this policy;

***(d) New development will be designed to not exacerbate flood risk***

5.3.21 Little guidance is presented in the NDP as to what constitutes 'specific and relevant circumstances'. The decision whether development of greenfield land outweighs its loss is a subjective one and therefore ambiguous. **Hence, if the last sentence of this policy is to remain, it should be supported in the accompanying text by cross reference to national planning policy and/or guidance.**

5.3.22 The supporting text at para 5.21 should be amended to more appropriately reflect the NPPF and the reference to 'in preference to greenfield land' be removed.

#### **Policy H5**

5.3.23 This policy should clearly refer to new development requiring formal consent. Some development within the curtilage of a residence benefits from permitted development rights. As such the first line of the policy should be modified as follows;



***'Any development proposals that require formal consent, i.e. not deemed to be 'permitted' under the extant permitted development regulations or any replacement regulations, will be supported if they can demonstrate that they can.....'***

5.3.24 **An additional criterion should refer to 'development not causing new or exacerbating any existing flood risk.'**

5.3.25 There is ambiguity as to whether this policy applies to all gardens across the NDP area, regardless of location within or beyond any BUAB. **As written it is applicable across the whole Plan area. To be compliant with the Core Strategy, it should be modified to refer to gardens within the BUABs only.**

### **Policy H6**

5.3.26 Reference is made to the monitoring of the ongoing provision of affordable housing throughout the plan period, and hence the implication is that the matter is to be considered, across the Plan area, but no indication is given as to how this will be done or by who. **While not making the policy invalid, it would be helpful if this were clarified.**

5.3.27 I note the comments from some Regulation 16 parties as to the rigidity of the policy if applied on a site by site basis. I consider that the evidence base supports the general approach taken but that a degree of flexibility needs to be introduced with its implementation. **Hence, I recommend that the policy text at the second paragraph is replaced with; 'In order to meet the specific needs of the Neighbourhood Plan area, affordable housing will be provided in general accordance with the following stock mix.....'**

5.3.28 Furthermore, the policy refers to a cascade approach regarding the specific allocation of affordable homes. This implies a form of management, as opposed to land use or development of the stock. **As such it should be removed from the main policy text and presented as accompany text in a redrafted form to 'encourage' the precedence of a local connection by any potential purchaser / occupier - as opposed to the enforcement of a strict allocation that a social provider may not be able to adopt.**

5.3.29 **Hence, amendments to the text of, and supporting text to, policy H6 need to be made to clarify ambiguity and allow the policy to be compliant.**

### **Policy H7**

5.3.30 The premise of part of this policy is to encourage a particular mix of market homes. However, as drafted, the policy assumes that land adjoining any development site might become available for development. An assumption that the land will come forward and hence capacity thresholds would be breached, could be deemed to be

ultra vires and likely to be open to criticism and challenge. **To avoid ambiguity, it is recommended that the second sentence of the first paragraph is deleted.**

- 5.3.31 If a requirement for 10% of any development site in excess of 20 units to comprise of bungalows, is to remain, **it needs to be fully justified through cross reference to the Housing Needs Survey and reference made to the evidence base which supports both the need and the fact that housing for the elderly needs to be in bungalow form. I do not consider that such evidence is robust. Hence the reference to 'bungalows' should be presented as an example of one of a number of potential forms of suitable accommodation.**
- 5.3.32 If applied on a site by site basis, the policy is overly rigid. A degree of flexibility should be given. Hence it would assist if the policy text at the second paragraph is replaced with; ***'In order to meet the specific needs of the Neighbourhood Plan area, market housing will be provided in general accordance with the following stock mix.....***
- 5.3.33 **Without these modifications, the policy is not compliant.**

#### **Employment;**

- 5.3.34 The introductory text to the employment policies refers in para 6.7 to retail and leisure activity and while retail use classes are cited, **it would consistent to also refer to D1 and D2 (leisure) uses.**
- 5.3.35 The cross reference to the District Council Employment Land Study is useful but cites a document that is now nearly 7 years out of date and omits a number of extant employment sites (NFU HQ and various barn conversions). A more up to date survey would have been helpful but I accept that the matter has been the subject of liaison with the LPA and Objective A and subsequent policies reflect the Core Strategy.
- 5.3.36 I am advised that Clifford Park Business Centre lies within Clifford Chambers Parish and hence **it is misleading to include this facility at para 6.8 and in the associated table of sites. As noted above, it would also assist any reader if the employment sites noted in para 6.8. and 6.9 are indicated on a suitable map within the NDP**

#### **Policy E1**

- 5.3.37 I recommend the addition of a further bullet point;

***(g) New development that has the potential to increase flood risk, within areas identified as Flood Zone 3, should be accompanied by a deliverable flood risk strategy***

## Policy E2

- 5.3.38 Reference to employment land allocation to the south of the Alcester Road is not well annotated on the Proposals Map. **This should be addressed. Furthermore, reference to Atherstone Airfield is misleading, as this lies beyond the NDP area and should be expressed as such.**

## Policy E3

- 5.3.39 Culture, media and tourism related employment is promoted under Policy E3 but with no conditions. This appears very broad and hence **I recommend that clarification is given through additional text in either the policy or as part of para 6.15 which should refer to;**

*...subject to other relevant policies within the NDP relating to design, impact on the character of the area, infrastructure provision (including off road parking) and impact of neighbouring land users.*

## Policy E4

- 5.3.40 Para 6.16 implies that work/live units would be suitable in rural locations as they are sustainable in terms of travel. There could be some confusion further to Core Strategy Policy CS.22. Hence, I recommend that the first sentence of the policy clarifies this matter and confirms that;

*Proposals for small scale work/live development (comprising new build or conversion of property which does not benefit from permitted development rights), comprising of workspace and living space, will be supported within the BUAB, providing that the proposed development meets the following criteria;*

- 5.3.41 I recommend the addition of two further bullet points;

*(h) The proposals do not exacerbate flood risk and are supported by flood resilience measures*

*(i) Proposals beyond the BUAB in countryside locations would need to present clear and sustainable justification, having regard to the criteria within NDP Policy H1.*

## Town Centre;

- 5.3.42 The introductory text in section 7 of the NDP sets the context for the policies to follow. While this supports the overarching Objective A, many policies are presented as means of managing issues rather than as land use based policies. I pick this point up below.

5.3.43 Core Strategy Policy CS.23 advises that further comparison goods retail floorspace may be required post 2021. **I concur with the LPA and agree that para 7.4 of the NDP is therefore misleading and should be modified accordingly.**

#### **Policy TC1 - omit**

5.3.44 The accompanying text in 7.21 suggest that a high proportion of retail business are independent operators and cites this as the rationale to restrict potentially competing new out of centre retail activity. To address this, I note that a more restrictive threshold of 300 sqm for comparison retail development, in the town centre, is proposed under this policy, when compared with the 1000 sqm threshold contained within the Core Strategy. Reference is made to 'local evidence' but no clear link to that evidence is presented or referenced in the NDP and furthermore the evidence before me is not conclusive. **While the NDP would be entitled to present this threshold, given that it deviates from the Core Strategy, sufficient evidence needs to have been presented. This has not been the case.**

5.3.45 **For this policy to be compliant, improved explanatory text should be added and cross reference made to an appropriate evidence base. I have not been presented with the latter and hence find this policy non-compliant. If this is an oversight and the evidence exists but simply not presented to me, then this is matter the LPA would need to raise directly with the QB**

5.3.46 **In the meantime, I consider that Policy TC1 should be deleted.**

#### **Policy TC2 - omit**

5.3.47 Again, at para 7.24 reference is made to a 'recent survey'. **I have reviewed the evidence base and the representations to the draft NDP. Reference is made to the subsequent work of the NP Steering Group in surveying the retail frontages but no clear document has been included to justify a threshold of 20% non-retail activity.**

5.3.48 **This threshold does not accord with the relevant Core Strategy policy and while the intent of the NDP policy is understood and indeed, reflects the thrust of the Core Strategy policy, it is not in general conformity and no robust justification to deviate from this to the degree proposed, has been presented. If this is an oversight and the evidence exists but simply not presented to me, then this is matter the LPA could raise directly with the QB**

5.3.49 **In the meantime, I consider that Policy TC2 should be deleted.**

#### **Policy TC3**

5.3.50 **I find this policy compliant.**

#### Policy TC4

5.3.51 This policy includes reference to two bullet points 'promoting' activity but does not explain who would be doing the 'promoting'. This is considered to be a management issue rather than a clear land use policy and **the two bullet points should be repositioned in the accompanying explanatory text.**

#### Policy TC5

5.3.52 The second bullet point of this policy is aspirational and vague – thus ambiguous. It would be better **repositioned as part of the supporting explanatory text and clarified with examples of potential reuse.** The fourth bullet point refers to a TC Project which does not form part of the NDP (see below) and **to avoid confusion, this bullet point should also be redrafted as part of the supporting text.**

#### Policy TC6

5.3.53 While the aspiration for a comprehensive large scale development is understandable, no definition of 'large scale' is provided. **Given the nature of the Rother Triangle area, this should be addressed, as it is in Policy TC7.**

#### Policy TC7

5.3.54 **I find this policy compliant.**

#### Policy TC8

5.3.55 **I find this policy compliant.**

#### Policy TC9

5.3.56 The conversion of upper floors above retail activity is already allowed under permitted development rights. This can take place unconditionally. Hence, the additional requirement under TC9 to address parking provision is at risk of challenge and may be deemed to be ultra vires, given extant PDR provisions.

5.3.57 **It is recommended that this policy is amended accordingly and only refers to new build development that would require specific consent and be subject to conditions.**

5.3.58 **Reference should also be made to new development that has the potential of exacerbating flood risk to be supported by flood resilience measures**

### Policy TC10

- 5.3.59 Reference to 'courtyard' shopping within this policy is vague and is not defined. **It is suggested that 'courtyard' could be deleted.**
- 5.3.60 This policy, like E3 appears to be very broad and it would **benefit by reference in the policy or as part of para 7.39 to; 'subject to other relevant policies within the NDP relating to design, provision of suitable infrastructure such as off road parking, and impact of adjacent land users.'**

### Policy TC11

- 5.3.61 I recommend that **reference be made, within the accompanying text, to the specific evidence base which supports the location of new conference facilities in these locations.**

### Policy TC12

- 5.3.62 As TC Project 4 is not a formal policy of the NDP (see below), **cross reference in the text of Policy TC12 should be removed and added as supporting text instead.**
- 5.3.63 Some Regulation 16 parties have commented on the dated nature of some of the evidence base and the usefulness of Policy TC12. I share those concerns and note below the usefulness of Policy BE8. However, I am conscious of the comments raised through the consultation process and the clear wishes of the community regarding the setting of new development within the town centre.
- 5.3.64 Hence I consider that policy TC12 should remain but that it should be modified as follows;

***All new shop fronts or changes to existing shop fronts should be in keeping with the supplementary guidance found within the Stratford upon Avon High Street Study (2005) and any relevant replacement guidance that will have been the subject of public consultation.***

***Any new shop fronts or changes to existing facades, should have regard to all statutory heritage designations.***

### TC Projects 1, 2, 3, 4, 5, 6, 7, 8 and 9

- 5.3.65 As noted earlier in this report, I am aware that proposals expressed in green boxes throughout the NDP, are aspirational on the part of the QB. TC Projects are illustrated as such and I am of the opinion that they should not comprise formal policies, i.e. they do not constitute a formal part of the NDP.

5.3.66 As such, I make no comment on the TC Projects, as they relate to collaboration of key stakeholders to form management teams to encourage various strategies and infrastructure improvements. I would however, encourage the addition of reference to liaison with the EA to develop a flood risk management strategy

5.3.67 I see no problem with including such aspirations within the NDP as they clearly reflect the extensive consultations undertaken with the community. **However, I would suggest that clear explanatory text is added to avoid any doubt on the part of a reader that these projects are not a formal part of the NDP.**

### **Built Environment and Design;**

#### **Policy BE1**

5.3.68 **I recommend the replacement of 'expected' with 'encouraged' in the first sentence of this policy.**

#### **Policy BE2**

5.3.69 **I find this policy compliant.**

#### **Policy BE3**

5.3.70 The need for large scale development to take into account '*potential future development on adjacent sites*' can introduce the potential for planning blight and could result in development being restrained. I consider this may be a challengeable matter and **I recommend that last sentence in the second paragraph of this policy is relocated to the explanatory text.**

5.3.71 It is unclear why the accompanying explanatory text at para 8.17 and 8.18 refer to 'design code' when the text of the policy refers to 'master plan / contextual plan'. **It is considered this may have been oversight from a previous draft version of the NDP but, in any event, should be addressed.**

5.3.72 **Again, the thresholds cited in Policy BE3 need to be better explained and reference made to the evidence base.**

5.3.73 **The footnote (15) appears to refer to wrong Core Strategy policy and should be amended.**

#### Policy BE4

- 5.3.74 This policy refers to the role of a Design Review Panel which has not yet been constituted and while the principle of a DRP accords with Strategic Development Plan policy and the NNPF, it is currently an aspirational proposal and as such should be identified as such.
- 5.3.75 **Following the approach already taken with the Plan, this policy should be identified in a green box and not presented as a formal policy of the NDP.**
- 5.3.76 Furthermore, the reference to 'significant or sensitive' in the supporting text is subjective and vague. **I recommend that para 8.22 should provide more effective explanatory text and guidance and either it refer to 'significant' as opposed to 'large scale' or the aspiration proposal refer to 'large scale'.**

#### Policy BE5

- 5.3.77 **I find this policy compliant.**

#### Policy BE6

- 5.3.78 I am aware of the Ministerial Statement issued in 2015 advising that technical standards should be avoided in neighbourhood plans. I note the consultation responses on this matter and as such I consider that the premise of the policy is appropriate. **However, it should only remain within the NDP if the last four paragraphs are removed and rewritten as explanatory text with a modified tone of 'encouragement', as opposed to strict adherence, eg replacing 'shall be' and 'must' with 'will be / is encouraged to'**
- 5.3.79 I suggest that the replacement text should read;
- 'Developers are encouraged to meet the highest design standards unless it can be demonstrated that it is not viable and/or technically feasible to do so or where other evidence has demonstrated high sustainable performance in accordance with recognised industry standards.'***
- 5.3.80 While the NDP can propose thresholds, these need to have been justified with clear evidence. Accordingly, it is considered more appropriate to 'encourage' the attainment of Breeam excellence in extant accompanying paragraphs 8.26 through to 8.30.
- 5.3.81 **While possibly a typographical error, the footer cross references 20 and 21 may have been mis-allocated.**



5.3.82 I note the representations from Regulation 16 parties relating to new development complying with 'Secured by Design' guidance and for it to allow access by emergency services. I consider that the former is satisfactorily covered by Policy BE5 for the purposes of this examination and the latter is addressed through statutory building regulations.

#### **Policy BE7**

5.3.83 **I find this policy compliant.**

#### **Policy BE8 - omit**

5.3.84 No distinction is made in this policy between traffic signage and advertisements that would in any event be subject to statute addressing advertisement control and the salient statutory regulation. Traffic and directional signs are subject to the Traffic Signs Regulations and General Directions 2016 and installed under the direction of the Highway Authority.

5.3.85 **I consider that at best this policy adds little to existing statutory regulations and at worst, introduces restrictive constraints that are ultra vires. As such I see little reason to include Policy BE8 within the NDP and it can be omitted.**

#### **Policy BE9**

5.3.86 As written, the policy implies that various design guidance is adopted policy and must be strictly followed. This is not the case. Supplementary Planning Documents are advisory or guidance documents only. While it is helpful to set extant documents out, the policy should acknowledge the role of such documents and the weight they carry in the decision making process. I note that the documents referenced within Policy BE9 are elderly and pre-date the Core Strategy. However, they have been used during the consultations with key stakeholders and hence can be referenced within the NDP.

5.3.87 **Hence I recommend, that the policy is modified to include an opening sentence as follows;**

***Relevant development proposals within the Neighbourhood Plan area are encouraged to have regard to the following design guidance documents, and any successors in title;***

5.3.88 **The last sentence should be amended to; *Development proposals will be expected to explain how this guidance has been addressed or provide an explanation to the contrary.***

5.3.89 **Para 8.39 should be modified to read; *'Supplementary guidance provides an important complement to this Plan.'***

5.3.90 The text at paras 8.42 and 8.43 refers to a 'Local Design Guide' and a 'Shop Fronts Design Guide' which are both aspirational documents, yet to be produced. **I recommend that this needs better explanation to avoid confusion.**

#### **Policy BE10**

5.3.91 Reflecting the evidence submitted, a map indicating Stratford upon Avon's Historic Spine should accompany this Policy and reference in the 3<sup>rd</sup> paragraph of the policy should replace 'preserve' with 'protect' to comply with NPPF.

#### **Policy BE11**

5.3.92 I note the strong representations made by the EA and **recommend that the first paragraph of the policy is modified to read;**

***Proposals for replacement dwellings must respect the character and appearance of the locality. Particular importance is placed on sensitive sites such as those within conservation areas or affecting the setting of listed buildings or lying in areas susceptible to flooding.***

5.3.93 The accompanying text should be expanded to **include reference to proposals to replace existing dwellings in any identified floodplain, and that these will need to be accompanied by a Flood Risk Assessment prepared in accordance with extant EA guidelines.**

5.3.94 I share the concerns of some Regulation 16 parties in that the supporting text appears to be judgmental in terms of a property owner's preference to do what they wish with their own property. **I recommend that the third sentence within para 8.48 should be removed and the last sentence be modified to read; *All new replacement dwellings will be encouraged to enhance design and create a sustainable living environment.***

#### **Policy BE12**

5.3.95 **Acknowledgement should be given in the supporting text that some reuse and conversion development will be allowed under permitted development rights.**

#### **Policy BE13**

5.3.96 Elements of this policy repeats elements of Policy TC9 and in any event duplicates permitted development rights. **As such the last sentence of the second paragraph is superfluous and should be omitted.**

## Natural Environment

### Policy NE1

5.3.97 The evidence presented to me relating to biodiversity and the natural environment is extensive and reflects strong local feeling. However, if sites, in addition to Bridgetown Woodland and Meadows, are to be proposed as Local Nature Reserves, then it would be helpful to have these clearly identified and cross referenced on Fig 11 and supported by specific evidence. While evidence relating to Bridgetown Woodlands and Meadows is before me, and broad biodiversity evidence exists, no other site-specific evidence has been presented.

5.3.98 My concern is that as written, the reference to 'local wildlife sites' being designated as Local Nature Reserves is not site-specific and is aspirational.

5.3.99 While the evidence base includes advisory documentation from Natural England, as the relevant statutory body, this does not constitute robust evidence. As such, I consider **the second sentence of Policy NE1 as too general, and it should be omitted. Hence the last sentence should be modified to refer to;**

***'Proposals which would adversely affect the environmental quality of Local Nature Reserves or Local Wildlife Sites will be resisted'.***

### Policy NE2

5.3.100 As mentioned at the beginning of Section 5 of this examination report, I consider that additional reference is made to flood risk and the first sentence of the policy be modified as follows;

***'Proposals within the Flood Zone of the River Avon will be required to show that they will not damage the river's role as a biodiversity corridor, linkages between the river and other important biodiversity sites, or increase flood risk....'***

***Flood zones 1,2,3a and 3b should be identified on a suitable map within the NDP.***

### Policy NE3

5.3.101 In the first sentence, I recommend that 'expected to protect mature healthy trees and hedges....' **be replaced with 'encouraged to protect all trees and hedges....'**

5.3.102 **References to specific British Standards should be accompanied by the phrase 'or as subsequently revised or replaced'**

5.3.103 I recommend that amendments to the last sentence are made as follows;

***'Relevant new development proposals will be expected to demonstrate that they have, where possible, had regard to appropriate sustainable landscaping, to avoid later retrofitting of poor quality or token landscape design'***

#### **Policy NE4 - omit**

5.3.104 This policy adds nothing to the extant controls over development within Sites of Special Scientific Interest, associated with existing statutory protection. As such the policy is superfluous and **should be omitted from the NDP.**

#### **NE Project 1**

5.3.105 As noted earlier in this report, I am aware that proposals expressed in green boxes throughout the NDP, are aspirational on the part of the QB. TC Projects are illustrated as such and I am of the opinion that they should not comprise formal policies.

5.3.106 NE Project 1 refers to the collaboration of key stakeholders to produce a Biodiversity Action Plan which new development would need to take into account. It is presumed that the Neighbourhood Area Biodiversity Action Plan would identify habitats that would already invite statutory protection. Hence, while a useful document in monitoring habitats, it would not appear to be able to introduce any further protection or restrictions on new development proposals.

5.3.107 I see no problem with including such aspirations within the NDP as they clearly reflect the consultations undertaken with statutory parties and the community. **However, I recommend that clear explanatory text is added to avoid any doubt on the part of a reader that these projects are not a formal part of the NDP.**

#### **Infrastructure;**

5.3.108 I note that the introductory text to this section of the NDP clearly reflects the strong feelings expressed through the consultation process as the NDP was being prepared. Some of the issues highlighted are appropriate for inclusion within a Neighbourhood Plan. Others are not as they relate to matters that fall under the jurisdiction of other statutory parties or relate to activity that is excluded from a NDP.

5.3.109 While INF Projects 1 through to 6 and INF Project 8, relate to a series of well expressed strategies, they are reliant on the future collaboration of various statutory parties and the identification of substantial funding to implement a series of traffic and parking approaches and the improvement of public transport services. These matters are clearly important to the community and hence I support their reference

within the NDP document. **However, again, I stress that a clear explanation is needed that they do not comprise formal policies of the NDP.**

5.3.110 I do, however, consider that some of the areas covered could be redrafted as specific policies. Where relevant I highlight this below.

#### **Policy INF1**

5.3.111 I consider the word **'Levy'** may have been omitted from the last line and should be added.

#### **Policy INF2**

5.3.112 **I recommend that cross reference is made to the evidence base supporting this policy**

#### **Policy INF3**

5.3.113 **I find this policy compliant.**

#### **Policy INF4**

5.3.114 As an observation, it is unclear why specific direction is given within Policy INF3 to the location of new education facilities south of the river, but a similar direction for an adequate provision of doctor's surgeries south of the river is only referred to in the supporting text of Policy INF4. While this appears inconsistent, I accept that it doesn't result in either policy being unacceptable, simply inconsistent.

#### **INF Projects 4, 5, 6 and 8**

5.3.115 While these proposals could have been presented as formal policies, at this stage of the NDP process, the required redrafting and the need for clarification from salient statutory bodies and the need for further third party consultation is not appropriate. As such, I accept that the projects are aspirational, supported by clear community intent, and they should remain as written.

#### **Policy INF5**

5.3.116 **I find this policy compliant but would be assisted by inclusion of a location map.**

## **Community, Leisure and Wellbeing;**

### **Policy CLW1**

5.3.117 **I find this policy compliant.**

### **Policy CLW2**

5.3.118 **I find this policy compliant.**

### **CLW Project 1**

5.3.119 While I am of the view that this proposal could have been presented as a formal policy, at this stage of the NDP process, the required redrafting and the need for further third party consultation is not appropriate. As such, I accept that the project should remain as written, namely aspirational, supported by clear community intent.

### **Policy CLW3**

5.3.120 As presented, (A) of this policy could relate to development on or in the vicinity of the specified Local Green Spaces (LGS). If the latter, then the policy is constraining given other policies within the NDP which address design matters. A proactive approach is considered more appropriate and **the policy should be modified to read;**

***Development on any Local Green Space, that would harm its openness or special character or its significance and value to the local community will not be permitted unless there are very special circumstances which outweigh the harm to the Local Green Space. Development in the immediate vicinity of any designated Local Green Space will be encouraged to show how it enhances the character or setting of that Local Green Space.***

5.3.121 Turning to the six LGS proposals, the assessment of these site in March 2016 clearly reflects a knowledge of the sites in question and commentary as to the public's use of the land in question. It does not comprise any detailed environmental or public use assessment (other than for LGS3 undertaken by a community group). However, given para 77 of the NPPF and the guidance within the PPG, I consider the evidence achieves the requirements in reviewing the criteria of; proximity; particular local significance; local in character and not extensive areas of land.

- 5.3.122 LGS1 is described in the Assessment presented as comprising 23.4 Ha. LGS2 extends to 34.3 Ha. LGS3 comprises 3.3Ha, LGS4 extends to 12.1Ha. LGS5 is a far smaller site of 0.6Ha and is poorly annotated on Fig12a. LGS6 extends to 9.8Ha. I have no reason to question these hectarages. LGS1, LGS2 and LGS3 each comprise two sites. **I consider that individual elements of the respective sites should be clearly identified.**
- 5.3.123 I note that objection has been raised by Regulation 16 parties to the inclusion of the main area of land comprising Site 4, in that it is private ownership. In itself, public ownership is not a criteria for compliance and the identification of the main area of land is appropriate. However, from a pragmatic perspective I accept that the inclusion of two smaller areas of private amenity land (to the rear of 30,32 and 34 Shottery) may have been included in error and should be removed from the allocation. **On this basis I concur that the main element of LGS4 (minus the smaller private landed interests), LGS5 and LGS6 are appropriate designations.**
- 5.3.124 **LGS1 and LGS3 should be split into their two distinct sites and appropriately referenced and designated. Similarly, the northern element of LGS2 should be designated. However, the larger southern tract of LGS2 is extensive and given the evidence presented does not comply with para 77 of NPPF and para 015 of the PPG (ID37-015).**
- 5.3.125 Furthermore, I consider it would be more appropriate to **identify each individual site on a more appropriate scaled site plan / map. In this way LGS5 would be more appropriate identified.**
- 5.3.126 **Further to the modifications above, Policy CLW3 is compliant.**

#### **Policy CLW4**

- 5.3.127 The reference to '10 homes or more' and '1 ha' is misleading. If the latter is to be the reference point, then a suitable density would be 25 units or more. **I consider that the threshold would be clearer if it simply referred to 10 homes or more.**

#### **Policy CLW5**

- 5.3.128 This policy would be better located in Section 10 (Infrastructure)
- 5.3.129 The second paragraph of this policy requires action that may concern land beyond any developers control. **It should be modified to read 'New development should demonstrate how walking and cycling opportunities have been incorporated and where possible how these connect to existing routes.'**
- 5.3.130 **The third paragraph of this policy should be modified to read 'Proposals which adversely affect existing walking and cycling routes will not be supported.'**

***Encouragement is given to proposals that incorporate appropriate new walking and cycling opportunities'***

- 5.3.131 The reference to '*development should not reduce the physical or visual amenity currently enjoyed by public route users*' is ultra vires in that under English law, no one, either using their private land or using public land, has the right to a view. **The reference to '*visual amenity*' should therefore be removed.**
- 5.3.132 The explanatory text accompanying this policy refers in 11.34 to 'Research' but no evidence base reference is given and **hence this is considered vague and improved reference to the evidence base for this policy should be considered.**

**Policy CLW6**

- 5.3.133 Figure 1 is difficult to read because of its scale. **It would be better to refer to a more appropriate plan at a better scale, so the Leisure Centre can be identified.**

**Policy CLW7**

- 5.3.134 The reference in the last section of the policy to the provision of gardens of '*at least 40 sqm to serve 2 bedroom houses and 60 sqm to serve 3+ bedroom houses*'. conflicts with para 59 of the NPPF which advises against the use of tight prescriptive design policy.
- 5.3.135 If this element is to remain as part of the policy, **it needs to be fully explained and the evidence base clearly referenced or it be redrafted to refer to encouragement given to the '*provision of garden land to serve new residential properties that could allow for private horticulture.*'**
- 5.3.136 The explanatory text accompanying this policy refers to 'Research commissioned by the previous Government' but with no other clarification. **I consider this to be vague and should be fully referenced.**

**CLW Project 2**

- 5.3.137 As noted earlier, I understand that proposals expressed in green boxes throughout the NDP, are aspirational on the part of the QB. I am of the opinion that they should not comprise formal policies.
- 5.3.138 CLW Project 2 refers to a series of proposals that are in part already covered by formal policies within the NDP. The reference to a community woodland is understood to have the support of the community but no locations are presented, and little reference is made to the relevant evident base.



- 5.3.139 While vague, I see no problem with including such aspirations within the NDP as they clearly reflect the consultations undertaken with statutory parties and the community. **However, clear explanatory text is needed to avoid any doubt on the part of a reader that these projects are not a formal part of the NDP.**

**Policy CLW8 - omit**

- 5.3.140 I consider that neither the policy nor the accompanying text adds to the Core Strategy policies and hence they can be omitted

**Policy CLW9 - omit**

- 5.3.141 Again, I consider that this policy and accompanying text adds little to the Core Strategy policies and hence they can be omitted.

**Site Specific Briefs;**

**Policy SSB1**

- 5.3.142 There is some concern on the part of Regulation 16 parties as to the accurate reference to the height of new development, particularly following the design analysis commissioned by the LPA and which appears to have been used by the QB.
- 5.3.143 I consider that the policy could be modified at (b) to encourage property up to 4 storeys and advise that development taller than this will require specific and clear justification.

**Policy SSB2**

- 5.3.144 I concur with Regulation 16 parties in terms of development for the site needing to be viable and advise that **criteria (a) should reflect para 96 of NPPF and make reference to 'where feasible and viable'.**
- 5.3.145 I consider that the use of the word renewal in (a) may be a typographic error in place of 'renewable' as used in para 12.12.
- 5.3.146 I note the representations regarding access and recommend that **criteria (d) is rephrased as; 'Safe access and egress from the Wildmoor roundabout, western relief road or other suitable location, supported by the County Highway Authority.**
- 5.3.147 I recommend that the policy should also make specific reference to Fig 15 and the accompanying explanatory text at para 12.12 should 'encourage' the use of a range of renewable technologies as opposed to making these a requirement.

- 5.3.148 There is reference to design codes, but this may be an oversight and included in error from draft versions of the NDP. Cross reference is made to Policies BE3 and BE4. **Further to my comments above regarding these policies, appropriate amendments should be made.**
- 5.3.149 I note that the QB has suggested that the site area should be amended to 22ha and the LPA have recalculated this to be 23ha. **I advise that a consensus view be taken, and an accurate area is confirmed. I also note the typographic error with pallet / palette and, as noted earlier, the need for Fig 15 to be accurate.**

### **Policy SSB3**

- 5.3.150 **Given the extant outline permission for this site which does not restrict the height of new development, it is considered that criteria (d) is a form of retrofitting design parameters and should be removed. The reference at footnote (31) to the planning consent is understood to be wrong and should read 15/02057/OUT.**
- 5.3.151 **Criteria (c) should be redrafted to 'encourage' local occupation as opposed to making this a pre-requisite.** As with my previous comments on a cascade approach for policy H6, the specific allocation of affordable homes implies a form of management, as opposed to land use or development of the stock. **As such it should be removed from the main policy text and presented as accompanying text. It should be drafted to 'encourage' the precedence of a local connection by any potential purchaser / occupier as opposed to the enforcement of a strict allocation that a social provider may not be able to adopt.**
- 5.3.152 The County Highway Department has no formal policies relating to off road parking. **As such '*...in accordance with Warwickshire CC adopted standards*' should be removed**
- 5.3.153 I consider that subject to these modifications, the policy and map at Fig 16, is compliant given the evidence base, Core Strategy policies and national policies.

## **5.4 CIL**

- 5.4.1 I note that the table included within Appendix 1 reflects comments received by the QB through consultation with key stakeholders and the community. It is presented however as an indication of potential projects and initiatives that may benefit from CIL receipts. In this form, I note its inclusion within the NDP but advise that it does not constitute a formal element of the Plan.

## 5.5 PLAN DELIVERY, IMPLEMENTATION, MONITORING AND REVIEW

- 5.5.1 While reference is made in Section 1 of the NDP to a review of the Plan every 5 years, little explanation of this is provided. Similarly, no clear reference is made to the implementation of the Plan or its monitoring. **It is suggested that these matters need to be addressed in a concluding section to the NDP.**
- 5.5.2 I note that this matter was also highlighted in the SEA report and Chapter 8 of that report explains the rationale for a monitoring programme for measuring the NDP's implementation in relation to the areas highlighted within the SEA report and where opportunities for an improvement in environmental performance may arise. Monitoring for the SEA could be carried out in conjunction with other monitoring processes carried out by Stratford-on-Avon District Council.
- 5.5.3 As noted earlier, aspirations of the QB have been included in the NDP and differentiated from formal policies by a green box annotation. Given the nature, and extent of, consultation while the Plan was being prepared, the inclusion of these aspirational initiatives is understood and not opposed. **However, a summary of aspirational activities would be useful to summarise in an additional Appendix to the Plan.**

## **6.0 REFERENDUM**

6.1 Further to my comments above, I recommend to Stratford on Avon District Council that, subject to the recommended modifications being undertaken, the Stratford upon Avon Neighbourhood Plan should proceed to a Referendum. I am required, however, to consider whether the Referendum Area should reflect the approved Neighbourhood Area or whether it should extend beyond this, in any way.

6.2 As noted earlier, the Neighbourhood Area reflects the whole of the Stratford upon Avon Town Parish and elements of the former parish of Old Stratford and Drayton (which has recently been the subject of redistribution into adjacent parishes). I am content that this should also reflect the area for any forthcoming Referendum.

## **7.0 SUMMARY AND RECOMMENDATION**

7.1 I find that the Stratford upon Avon Neighbourhood Plan is an extensive document and has been the subject of a robust series of effective consultations. The resulting vision, objectives and policies reflects the findings of those consultations and drafts of the NDP have been the subject of appropriate amendments to take on board appropriate comments from statutory consultees and key stakeholders.

7.2 The document is well written and presented, although in places it would be further strengthened by the inclusion of improved reference to the evidence base.

7.3 I have suggested modifications to some of the proposed policies and explanatory text, to remove ambiguity and ensure that policies, illustrations and supporting text are clear. I consider that, if addressed, this would provide for a robust document and would allow the Plan to be compliant with the necessary Basic Conditions.

7.4 In summary, subject to the suggested changes, the Plan would comply with the legal requirements set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 and the relevant regulations relating to the preparation of a Neighbourhood Plan.

7.5 I do not have any concerns over the defined Plan Area nor with that area forming the basis for any Referendum.

7.6 Hence further to the modifications proposed within this submission, I recommend that the Stratford upon Avon Neighbourhood Plan should proceed to a Referendum.

**Louise Brooke-Smith, HonDTech, BSc(Hons), DipTP, FRICS, MRTPI**

**Brooke Smith Planning (Arcadis) - March 2018**

## Appendix A – Examiner's use of Abbreviations

Stratford upon Avon Neighbourhood Development Plan;	SNDP
The Plan / The Neighbourhood Plan;	NDP
Stratford upon Avon Town Council;	STC
Qualifying Body;	QB
Stratford on Avon District Council;	SoADC
Local Planning Authority;	LPA
National Planning Policy Framework;	NPPF
National Planning Practice Guidance;	NPPG