

Response from RPS

Dear Sir/Madam

STRATFORD NEIGHBOURHOOD DEVELOPMENT PLAN PRE-SUBMISSION CONSULTATION

Thank you for the opportunity to comment on the above document. This response is made on behalf of RPS's clients Taylor Wimpey and Miller Homes who have controlling interests in land to the north of Bishopton Lane, Stratford.

I therefore provide specific comments on the draft Neighbourhood Development Plan (NDP) below, which are divided into three specific sections:

1. Comments of a general nature dealing with the NDP process;
2. Comments relating to policies we consider at this stage to be of a strategic nature; and
3. Comments on more localised policies.

I trust you will find these comments of assistance in continuing to prepare the NDP and RPS would be willing to discuss any issues raised. Prior to providing these comments, I provide a few comments in relation to the land at Bishopton Lane.

Land at Bishopton Lane

As you may be aware the land at Bishopton Lane is being promoted through the Stratford Core Strategy as a sustainable extension to the town, outside of known designations and areas of constraint such as the Green Belt. You will be aware of the stage the Core Strategy has reached with the interim findings of the Inspector.

We recently undertook a public consultation exercise (15 June 2015 at Bishopton Community Centre) to inform members of the public of our proposals for the site and seek their comments. This, as you will hopefully be aware, also involved a specific session for stakeholders including the Town Council.

I attach the draft Masterplan which we exhibited which proposed the following:

- Between 450 and 500 dwellings with a mix of house types;
- Affordable Housing for local residents in housing need;

- Improvements to the Bishopton Lane Canal Bridge & local Highways;
- No development within the flood plain and new SuDS; and
- Children's play area and significant areas of on-site open space.

We are currently in the process of refining our proposals for the site in light of the comments received and the progression of the technical evidence base. Following this process and further engagement with relevant stakeholders, we envisage submitting a planning application for the site in October this year.

1. GENERAL COMMENTS ON THE NDP PROCESS

Timing in Relation to the Stratford Core Strategy Process

As a general point, many of the aims and policies in the Pre-Submission Neighbourhood Plan ("the Plan") have crossovers with the policy approaches in the emerging Stratford Core Strategy. The Plan openly acknowledges that the emerging Core Strategy is subject to change and the Plan will need to adjust accordingly once the Core Strategy is adopted. The Plan should be mindful of the likely changes to the Core Strategy, bearing in mind the recommendations of the Inspector's Interim report on 18 March 2015.

One of the shortfalls documented in paragraph 42 of the Inspector's Report identifies the disparities in the employment growth forecasts, which in the view of the Inspector needs to be revisited. The Council are currently committed to these changes, which are anticipated to lead to increases in the overall housing requirement for the District.

Revisions to the Core Strategy and its associated technical evidence base are being considered by Stratford at its Cabinet and Full Council on 20 July 2015, prior to further public consultation and re-Examination by the Planning Inspector (Mr Peter Drew) likely towards the end of 2015/early 2016.

Whilst RPS understands the desire of the Town Council to progress its NDP, given the clear relationship with the Core Strategy and need for consistency with its strategic policies, it is RPS's strong view that the NDP process awaits the findings of the Core Strategy Inspector's Report prior to proceeding further.

To provide weight to this view, I provide some brief commentary below on the most recent High Court cases which have considered three NDPs and the weight given to emerging policies by the Court, which I trust the Town Council will find helpful.

High Court Decisions on NDP

Recent decisions by the previous Secretary of State (the Right Honourable Eric Pickles MP) to refuse housing schemes on grounds of prematurity to an emerging NDP have resulted in three such decisions being quashed by the Court.

First, the Secretary of State (“SoS”) filed a consent order in the High Court (May 2015) recognising that he could not defend his refusal of permission for 100 homes at Rolleston-on-Dove, Staffordshire, in December 2014. The Inspector had recommended approval, but the SoS refused on prematurity grounds. The Parish Council’s favoured version of the neighbourhood plan had already been rejected by its examiner, whose suggested modifications obliged the SoS to accept that the “development would not be in direct conflict” with neighbourhood plan policies. He also failed to acknowledge that the land was allocated as a housing site in the emerging local plan.

Secondly, on the same day, Mr Justice Holgate handed down his judgment in *Woodcock Holdings v Secretary of State for Communities and Local Government*, concerning the refusal of permission for homes in Mid Sussex in September 2014, again based solely on an emerging NDP and contrary to the Inspector’s recommendation. The judge criticised the poor quality of the reasoning in the decision letter. Following the failure to take account of paragraph 216 of the National Planning Policy Framework (“NPPF”) and indeed a SoCG signed by the Council. The Judge concluded that the SoS had placed too much weight on the importance of an emerging neighbourhood plan in his decision letter. The decision also included the suggestion that the absence of an objectively assessed need for the district increased the weight to be given to the draft neighbourhood plan policies. The judgment also confirms that paragraph 49 of the NPPF applies to relevant neighbourhood plan policies for housing supply and that paragraph 198 does not elevate the status of neighbourhood plan over local plans.

Finally, the SoS also consented to judgment (May 2015) over his refusal of permission for up to 350 homes at Devizes in Wiltshire in October 2014, again based on an emerging neighbourhood plan. The SoS had refused it on the grounds that the application was contrary to the draft Devizes Area Neighbourhood Plan, which had not yet undergone examination. The decision letter was described in the Claimant’s details of claim as “incoherent”.

I believe these three very recent decisions highlight the very limited weight given by the courts to the emerging NDP and re-enforces RPS’s view that the Town Council would be well advised to await the outcome of the Core Strategy process at Stratford, prior to progressing its current draft plan.

2. COMMENTS ON NDP ISSUES OF A STRATEGIC NATURE

As indicated above, comments are provided on the NDP which have been addressed as either a strategic or local issue, addressed under the policy headings defined by the Plan. These comments have been made in the context of paragraph 8 (2) of Schedule 4 of the Town and Country Planning Act 1990, which includes a list of basic conditions to which the NDP should adhere if it is to proceed to referendum. It is these conditions that the Plan will be measured against as part of independent examination which include, amongst other items, conformity with local and national policies and the contribution towards achieving sustainable development.

It is RPS's view that the draft NDP includes a number of policies which would lead to significant deviations from the Core Strategy. It is for the Inspector examining the NDP to determine whether the policies in the NDP are consistent with the Core Strategy, however, comments have been provided above in relation to the Core Strategy timescales and High Court Decisions.

Section 5: Housing

The opening statement to this section, from page 17 onwards outlines the Town Council's wishes to plan carefully for development in and around the town, which can accommodate necessary infrastructure and ensure housing opportunities for younger residents. This approach is firmly supported by RPS, whose clients are committed to delivery of a scheme capable of delivering a range of house types to support future housing need in Stratford Town.

Policy H1 – Built up Area Boundaries

The policy proposes an area boundary which tightly follows the current extent of development in Stratford Town. RPS considers that the Town Council should be mindful of the wider strategic context of development in Stratford and the need to align with the emerging Core Strategy, its development strategy, housing requirements and requirement for greenfield development, which will provide a strategic framework for the District.

Presently, the identified housing need in the District is 11,320 dwellings however, it has been accepted that this will rise, accounting for adjustments to housing need in the District. Whilst we do not yet know the extent of this increase, and indeed where the Council intend to locate new growth, the Inspector's Interim Report refers to Stratford town as the most sustainable location in the District and one which can accommodate increases in growth. As such, the Plan should accommodate future development requirements for the town and remain flexible, acknowledging that the boundaries are likely to change as the need for housing increases.

The Town Council may be aware of the Council's latest Modifications to the Core Strategy, endorsed by the Council's Cabinet on 1 June 2015. This document included the proposed Main Modifications to the Core Strategy, including a reserve sites policy. Within policy CS.16 (d) of the emerging Strategy, the Council includes a new section which requires the identification of reserve sites, to meet up to 10% of the total housing requirement, to be released should the Core Strategy fail to deliver upon targets for growth.

In addition to policies, the NDP can also bring sites forward as additional allocations. In the event of evidence of increased housing need, the NDP could give certainty to where development could be located, instead of piecemeal development that may lead to less sustainable outcomes.

It is considered that Land at Bishopton Lane, promoted by RPS, is fully capable of meeting this requirement as it is strongly located to the town yet does not compromise the historic centre of Stratford, located in a well-defined non Green Belt location.

Recognition of this point was made clear by the representative from the Campaign for the Protection of Rural England (CPRE) at the Core Strategy Examination in January 2015, who advised the Inspector that the Bishopton Lane site was the most obvious location around the whole town for future growth.

It is considered that this proposal can produce a range of housing, consistent with the emerging NDP and infrastructure to meet the needs of the development. It is recommended that the NDP take a proactive stance and include Bishopton Lane as a housing allocation site for development.

Policy H2 – Strategic Gap

RPS has no comments to make at this time. Policy H4 –

Prioritising the Use of Brownfield Land

The thrust of this policy seeks to support the effective re-use of land, an approach generally supported through the National Planning Policy Framework (“NPPF”). Within the body of the text, the policy cites the presumption against the development of greenfield land, which would be resisted unless exceptional circumstances are presented. This principle is not supported through the NPPF or the Core Strategy. The Courts have held¹ that the NPPF does not contain a sequential approach favouring brownfield land.

It is considered that the NDP has taken an overly restrictive approach to sites on greenfield land, one which is not consistent with the principles of the NPPF. Paragraph 14 of the NPPF refers to the presumption in favour of sustainable development, the golden thread running through the document. In determining sustainable development weight should be given to social, economic and environmental considerations and policies should be framed in this context. The existing land use of sites, be they greenfield or brownfield, will be one of many considerations in determining the sustainability of sites and sites on undeveloped land should not be penalised on this point alone.

In order to be consistent with the NPPF, it is recommended that the final sentence of policy H4 is removed, deleting reference to a presumption against development. This is not representative of the positive planning required and is inconsistent with the NPPF based on the points made above. It is also reflective of the emerging Core Strategy which acknowledges the need for greenfield land to deliver its development requirements.

Policies H6/H7 – Affordable and Market Housing Mix

Both of these policies propose a housing mix different to that in the emerging Core Strategy, drawing from the January 2013 Strategic Housing Market Assessment (SHMA).

¹ *Burgess Farm, Worsely, Salford, Manchester High Court Case*

Evidence used in the generation of policies should be both robust and up to date. Whilst the SHMA is a credible evidence source, the document referred to pre-dates the most up to date SHMA, published in November 2013. It is this document that the Core Strategy has used as part of emerging policy CS.18, as per the proposed modifications. The emerging policy in the Core Strategy includes a more flexible range (as indicated below) than proposed as part of policies H6 and H7 and the Plan should consider the needs to produce a flexible, responsive document.

Core Strategy Mix for new Policy CS18

Dwelling type	Market Housing	Affordable Housing
1 bed (2 person)	5-10%	10-20%
2 bed (3 or 4 person)	35-40%	25-45%
3 bed (5 or 6 person)	40-45%	25-45%
4+ bed (6, 7 or 8+ person)	15-20%	5-25%

As currently drafted, this NDP policy is not consistent with the emerging Core Strategy and it is recommended that this is removed from the Plan and a simple cross reference is made to the Core Strategy.

3. COMMENTS ON NDP OF A LOCAL NATURE

Policy H8 – Provision of Housing for an Ageing Population

The draft policy cites a number of provisions to deal with an ageing population in Stratford Town. Whilst the 2011 Census does point towards increases in the elderly population it is unclear whether the NDP has investigated any other ways of meeting this need. The preferred method of Policy H8 is to require developments of 20 or more dwellings to include housing designed for the elderly, at least 10% of which should be bungalows.

Within the emerging Core Strategy, the different house types and housing mix have been tested through a viability appraisal, however this has not considered the types of development promoted in the policy including bungalows. Given the amount of land take, bungalows present different land values than either houses or flats and may impact on a schemes ability to remain viable. It is recommended that the reference to bungalows is removed to ensure flexibility for developers to make appropriate arrangements based on the type of site and local requirements.

The draft policy also refers to the use of the Lifetime Homes standard, which is also the subject of the emerging Core Strategy. This issue should be deferred until the adoption of the Core Strategy.

Policy BE3 – Design Codes and Master Planning

The Plan makes reference in a number of places to large scale developments referring to sites of 10 or more. This policy requires that all large scale developments be accompanied by a masterplan (outline) or contextual plan for detailed applications.

Under current arrangements significant schemes often include concept plans or illustrative masterplans to outline the key components of schemes, submitted alongside Design and Access Statements. What is not included in these masterplans is an analysis of the recent and potential future development as required by policy BE3. This view of cumulative development is often used to consider issues such as highways impact, however, it has never been the preserve of design. It may be difficult to predict when future schemes will come forward and as such, the legitimacy of this clause is debatable. On this basis, the requirements for cumulative assessments should be removed.

Policy BE4 – Design Review Panels

The policy outlines the mechanism for a design review panel, undertaken and monitored by the Town Council which will apply to all large developments. These have previously been defined as sites of 10 or more.

The Plan cites paragraph 62 of the NPPF as the relevant policy, however it should be noted that this paragraph applies to reviews undertaken by Local Authorities, who are normally better resourced to manage such a task. As the principal centre for growth in the District, a number of large sites can be expected to come forward after the adoption of the Core Strategy and the Town Council needs to be satisfied that suitable arrangements are in place to provide advice in a consistent and timely manner. To be consistent with paragraph 62 of the NPPF, it would also be advised to adjust the wording of the policy to indicate that the Local Authority “*should have regard to the recommendations of the design review*” rather than a material consideration as currently drafted.

Whilst Design Reviews can assist in the process, it is not clear what expertise the Town Council have in this particular field, given the expertise of the LPA and other groups such as MADE who already undertake such reviews in the West Midlands.

Policy BE6 – Design Quality Standards – Code for Sustainable Homes, Lifetime Homes and Buildings for Life

The first part of this policy refers to Lifetime Homes. As noted in response to Policy H8, the issue of Lifetime Homes is currently under debate as part of the Core Strategy Examination and should be reserved until the Inspectors final report is published.

The second section refers to Code for Sustainable Homes. As part of the Government’s Housing Standards Review, it has been proposed that the Code for Sustainable Homes standard is to be abolished. This is reflected in paragraph 3.1.8 of the June 2015 Main Modifications to the Core Strategy, which acknowledges that the Code will be phased out and replaced by national standards within the Building Regulations. Reference to the Code should be removed from the policy.

The third section of the policy refers to the Building for Life 12 criterion, a policy tool proposed by the Design Council. The policy advocates that favourable condition will be given to developments scoring green for all 12 of the criteria, whilst those with red and amber scores will need to be justified through supporting statements. This is not how the criteria was intended to be used, as highlighted on page 6 of the January 2015 Building for Life guidance, which states:

“For these reasons, whilst we encourage local authorities to adopt BfL12, we recommend that they avoid explicitly setting a requirement for all proposed developments to achieve 12 ‘greens’. Instead, we recommend that local policies require all proposed developments to use BfL12 as a design tool throughout the planning process with schemes performing ‘positively’ against it.”

The checklist of features should be used less prescriptively, as suggested in the January 2015 Building for Life guidance where it can be used as a positive tool to guide development, rather than a mechanism to prevent it.

Policy BE7 – Sustainable Drainage

Policy approach is generally supported and acknowledges that solutions must be appropriate to characteristics of sites, which can greatly vary.

Policy BE8 – Effective and Efficient Use of Land

The only comment here relates to the word ‘exceptional’ in reference to development on agricultural land of the best and most versatile quality. The NPPF makes reference to this land in the context of the economic benefit of such land and promoting sites on lesser quality, however the need to test for exceptional circumstances is not noted. For consistency with the NPPF, the policy should be amended to remove this phrase.

Policy BE11 – Listed Buildings and Scheduled Ancient Monuments

It is considered that this policy should be adjusted to refer to ‘significant harm’, rather than simply ‘harm’. This is more consistent with the provisions of paragraph 132 of the NPPF and enables an evidence led approach towards assessing the significance of heritage assets within the neighbourhood plan area.

Policy CLW5 – Open Space and Play Areas within New Development

This policy is linked to the development of areas of new open space within large development, characterised under draft policy BE3 as 10 units or over.

The policy makes direct links to new developers complying with Natural England’s Greenspace Standard recommendations which, though are not explicitly clear, are considered to be the Accessible Natural Greenspace Standard (ANGSt). This is not a formally adopted policy document and it is worth noting that both the evidence behind the document and the publication itself were published prior to the publication of the NPPF. The actual standards for ANGSt are published on Natural England’s website as archived content, an action which was taken on 5 June 2014.

It should also be noted that the emerging Core Strategy includes a list of open space standards under policy CS.24 (b). This includes standards for development to adhere to for each of the open space typologies in Stratford District and can be applied in both the town and rural areas.

The ANGST criterion is not intended to be applied on a development site basis. Instead, it should be a tool to guide development towards locations which can benefit most from access to different green spaces.

Clarification on this issue is necessary in the development of this policy.

Policy CLW14 – Encouraging Local Generation of Renewable and Low Carbon

Energy

The policy seeks to maximise the opportunities for renewable energy systems in all new development. This should be read in the context of policy CS.2 of the emerging Core Strategy.

Regarding the sustainability of new development, part B of this policy makes reference to a fabric first approach to encouraging a low carbon economy, which offers the greatest gains in reducing overall carbon emissions. This is followed by the supply of efficient energy from decentralised sources, to then be followed by renewable energy on site. This is considered the most effective way of addressing the challenges of carbon reduction and to be consistent with the emerging Core Strategy, this policy should be drafted in accordance with the fabric first approach.

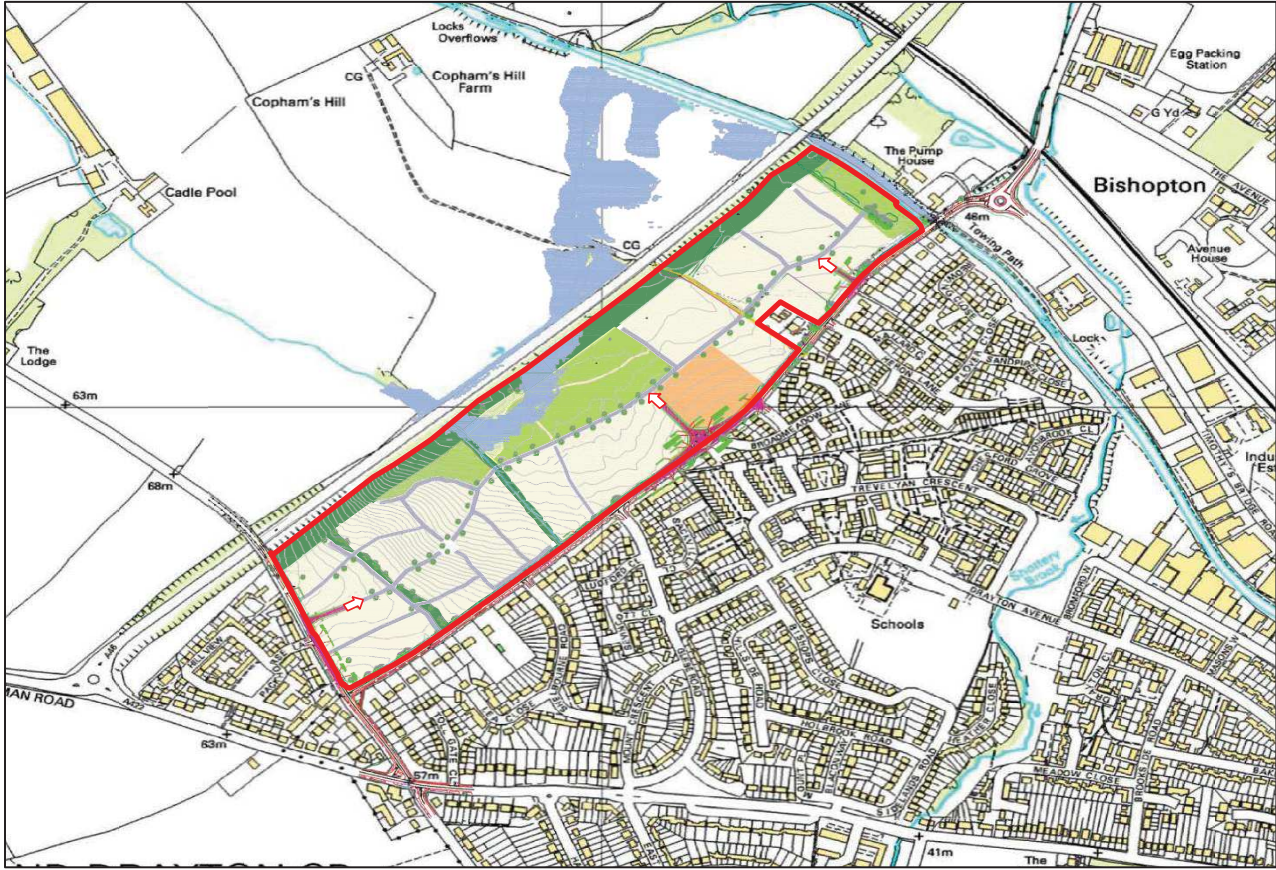
As indicated above it is hoped that these comments are helpful in considering how to progress the NDP further and in particular the relationship with the Core Strategy process.

Yours sincerely



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Enc: Illustrative Masterplan



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Client: Taylor Wimpey & Miller Homes Ltd

Project: Bishopton Lane, Stratford upon Avon

Drawing: Proposed Masterplan

Drawn by: AK
 Checked by: AK
 Drawing No: 1043-01

Scale: 1:5000 BS A3
 Revision: -