



# REPRESENTATION

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in respect of  
**South Staffs Regulation 19 Consultation**

on behalf of  
**Land at Blackhalve Lane**

15 December 2022

Client Reference: RCA575b

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# QMS

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## CONTENTS

<b>1. INTRODUCTION .....</b>	<b>4</b>
<b>2. REPRESENTATION .....</b>	<b>6</b>
Policy HC1: Housing Mix .....	6
Policy HC2: Housing Density .....	6
Policy HC3: Affordable Housing .....	6
Policy HC4: Homes for older people and others with special housing requirements .....	6
Policy HC6 Rural Exception Sites .....	6
Policy HC8: Self-build and Custom Housebuilding .....	7
Policy HC10: Design Requirements .....	7
Policy HC11: Protecting Amenity .....	7
Policy HC12: Space About Dwellings and Internal Space .....	8
Policy HC17 Open space: .....	8
Policy DS5 The Spatial Strategy to 2039 .....	8
<b>3. THE SITE AND PROPOSALS .....</b>	<b>9</b>

# 1. INTRODUCTION

- 1.1. This representation is made by RCA Regeneration Ltd on behalf of St Philips, in respect of Land at Blackhalve Lane to the South Staffordshire Regulation 19 Consultation on the Publication Plan, which is running from the 11 November until 23<sup>rd</sup> December 2022.
- 1.2. The Publication consultation document is the fourth public consultation on the emerging South Staffordshire Local Plan following the Preferred Option consultation in November 2021, the Spatial Housing Strategy and Infrastructure Delivery (SHSID) consultation in October 2019 and the Issues and Options consultation in October 2018.
- 1.3. The Planning Practice Guidance (PPG) and SEA Directive<sup>1</sup> requires a clear and transparent process of identifying, describing and evaluating reasonable alternatives in both policy and site allocation terms. There is often a direct conflict between the imperative to deliver new homes and enough jobs to support the local economy, whilst continuing to offer sufficient protection to the environment. There is also a soundness and legal compliance element to the preparation and production of SA documents and as such we have considered these as part of our submission.
- 1.4. It is noted that this consultation on the Publication plan now firms the policies up from the previous consultation stages, taking account where appropriate the comments received and presenting the plan in its final draft form for Publication.
- 1.5. To reflect the requirements of the consultation process, the following table sets out which paragraphs/page numbers we have commented on, and these are then dealt with, in turn, throughout this document.

Policy	Paragraph	Page
HC1		87
HC2		89
HC3		91
HC4		93
HC6		96
HC7		98
HC8		100
HC10		104
HC10	N	105
HC11		106
HC12		108
HC13		110

<sup>1</sup> <https://www.gov.uk/government/publications/strategic-environmental-assessment-directive-guidance>

HC17		116
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- 1.6. We do not respond to all sections of the Publication Plan, only those which we currently consider relevant to our clients and/or the sites they are promoting and areas/villages/settlements within which those sites are located.
- 1.7. We are aware that only comments on the soundness and legal compliance of the plan can be made and it must be targeted to a specific policy or paragraph in the draft Plan. In paragraph 35 of the Framework, plans can be found 'sound' where they meet the following tests:
- 'a) Positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;*
  - b) Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;*
  - c) Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and*
  - d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.'*
- 1.8. We therefore make our comments with this in mind.
- 1.9. These views are without prejudice to future submissions or hearing statements, which may be made in advance of the Examination.

## 2. REPRESENTATION

- 2.1. This section provides our comments on a number of elements of the Publication document as follows:

### **Policy HC1: Housing Mix**

- 2.2. We are largely supportive of policy HC1 housing mix as it states that on major development sites, the market housing mix 'must' include a minimum of 70% of properties with three bedrooms or less. We would prefer the wording of 'must include' to be amended to 'should' as such a target would place a disproportionate and inflexible burden on small and medium housebuilders who may be more inclined to provide bespoke homes with a higher specification for customers seeking larger homes. Moreover, a housing mix policy for the borough as a whole does not account for the vagaries of local markets, nor local supply issues.
- 2.3. We therefore do not consider this policy is consistent with NPPF para 82.

### **Policy HC2: Housing Density**

- 2.4. We are broadly supportive of the proposed housing density of 35 dwellings per hectare but feel that this policy should give some reference to best and most effective use of the land, to ensure efficient housing delivery where it is needed most. This would also accommodate the need for higher density development within certain 'character areas' of larger multi-phase developments.

### **Policy HC3: Affordable Housing**

- 2.5. We consider that in relation to the proposed 25% shared ownership and 25% first homes tenures, there should be some flexibility given here as it allows affordable rent to be substituted against shared ownership. To not include or indicate this within the policy would, in our view make the policy inconsistent with NPPF para 82.

### **Policy HC4: Homes for older people and others with special housing requirements**

- 2.6. We object to the wording of Policy HC4 where it states the following:

*'All major developments will also be required to ensure 100% of both the market and affordable housing meets the higher access standards Part M4(2) Category 2'*

- 2.7. To require all major developments to meet the higher access standards of Part M4(2) Category 2 could have significant financial viability implications. This policy also does not seem to account for the redevelopment of (for instance) listed buildings, as in many cases it will not be possible to meet the access standards of Part M4(2) Category 2 within the confines of a listed building without resulting in a detrimental impact or due to spatial restrictions. We therefore consider that this policy should be reconsidered to take into account more constrained sites where this would not be possible, or where viability would indicate that flexibility should be applied.
- 2.8. If such flexibility is not written into this policy, we consider it would be inconsistent with NPPF para 82.

### **Policy HC6 Rural Exception Sites**

- 2.9. Whilst we are broadly supportive of this policy, we consider that smaller housing sites need to be better defined. Given that Rural Exception Sites are delivered on the basis of local need, this policy assumes that sites can only be small, which runs contrary to the NPPF which does not stipulate such sites should be small:

2.10. Paragraph 78 states that *'In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this.'*

2.11. We therefore do not consider that this is consistent with national policy.

### **Policy HC8: Self-build and Custom Housebuilding**

2.12. Policy HC8 talks about major developments but does not give a percentage requirement of self-build/custom-build plots. We consider that the policy is vague and would benefit from clarification, given how precise the council have been about the proportion of affordable housing, for instance.

2.13. In light of the fact that the council are under an obligation to maintain a custom and self-build register, it should be clear what the requirements are and how a policy could address this appropriately.

### **Policy HC10: Design Requirements**

2.14. We have considered Policy HC10 and note that there is a lack of reference to character areas in major sites, so this should be given greater emphasis as it will be sought by the council in any case.

2.15. We also consider that the policy needs to be supportive of flexible approaches to planning applications (such as a hybrid outline) now that the Hillside Judgement<sup>2</sup> has been released. The Hillside Judgment reaffirms the 'Pilkington principle'. This establishes that where a development has already been built in accordance with and under a first permission, the ability to lawfully implement a second permission on part of the same defined site is dependent on whether it is physically possible to carry out that second permission based on what has already been carried out in the first permission. This occurrence is sometimes referred to as a 'drop-in permission'.

2.16. With regard to point J in Policy HC10: 'Gives safe and convenient ease of movement to all users prioritising pedestrians and cycle users', this point, in our view, should include the requirements for developments to be adequately lit to ensure the safety of pedestrians and cycle users.

2.17. In order to be considered consistent with para 82 of the NPPF, this policy requires greater flexibility.

### **Policy HC11: Protecting Amenity**

2.18. We are widely supportive of this policy but consider that outlook also needs to be covered to consider the impact of development proposals on neighbouring living conditions. Furthermore, there should be some consideration within the policy of to the potential for overheating, under part O of Building Regs<sup>3</sup>. There could be many sites proposed for allocation that could be noisy. Noise mitigation in many new homes involves mechanical venting and windows that do not open. This has implications for overheating in some cases.

<sup>2</sup> <https://www.supremecourt.uk/cases/uksc-2020-0211.html>

<sup>3</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1057374/ADO.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1057374/ADO.pdf)

## Policy HC12: Space About Dwellings and Internal Space

- 2.19. We note that this policy mentions outlook and mentions a garden area ratio under 'external space'. However, has this been tested against the proposed net densities of 35 dwellings per hectare or more?
- 2.20. We also feel that the suggested 21m distance between dwellings from principal elevations should be subject to further review because it could result in excessively wide streets which may affect developments achieving net density targets. Moreover, it would not accommodate the sorts of street hierarchies that would typically be advocated in larger developments with multiple character areas. Furthermore, such separation distances could result in wide carriageways appearing over-dominant, creating a poor environment with a lack of a sense of place.
- 2.21. We consider the policy, as worded, would be contrary to para 130 of the NPPF which states that *'Planning policies and decisions should ensure that developments ... (d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;'*

## Policy HC17 Open space:

- 2.22. We are supportive of this policy, but what is the formula to calculate open space provision requirements and has this been considered by the viability study? We consider that this should be included as part of the policy or in an Annex to the main document. This should be made available before the plan is submitted for examination.

## Policy DS5 The Spatial Strategy to 2039

- 2.23. In relation to the 4000-home contribution towards unmet housing needs of the Greater Birmingham and Black Country Housing Market Area, we are supportive of this. However, it remains unclear whether this is now a contribution entirely for the Greater Birmingham area or whether there was a proportion towards the unmet need of the Black Country. This figure should be disaggregated.
- 2.24. We also consider that the tier 2 settlements should be subject to an increased level of allocation. It is noted that there are 4 large strategic sites subject to allocations in excess of 500 dwellings. The limitations of these sites are that they are unlikely to deliver quickly – requiring greater levels of upfront investment in infrastructure as well as being often fraught with more complex technical problems which take time to solve. Moreover, these sites will be delivered on a phased basis, requiring multiple planning applications, all of which takes time. In order to deliver housing quickly (particularly in light of the delays to the delivery of this plan) there should be an increase in the number of smaller, less strategic allocations to deliver within the initial phase of the plan period in order to ensure the council can initially achieve and then maintain a healthy supply of housing land.



### 3. THE SITE AND PROPOSALS

- 3.1. We would firstly like to highlight that we are disappointed that our client's site: Land at Blackhalve Lane has not been included as an allocation within the Publication Plan document. We feel that the site should be included in the emerging plan as it would make a valuable contribution towards meeting the district housing target 9,089 homes over the period from 2018-2039.
- 3.2. The land at Blackhalve Lane has already been subject to previous representations at preferred options, Issues and Options and the Spatial Housing Strategy stages of the emerging plan. It is noted that the site has been partly proposed for housing as an allocation in (what was) the emerging Black Country Plan, focussing on the area of the site which falls into Wolverhampton, and the other part of the site has been omitted from the South Staffordshire Plan (reference 520). The site is referred to as 'Fallings Park' and includes land owned by Wolverhampton City Council.
- 3.3. The site plan provided below shows a white dashed line which details the part of the site falling into the BCP (which is a proposed allocation) and the eastern part of the site which falls into South Staffordshire (not allocated). The boundary between the two is just a broken hedgerow which offers a poor boundary to the edge of the Green Belt should the Wolverhampton element of the site come forward. We firmly consider a more comprehensive scheme would ensure a more holistic approach is taken to creating a robust, enduring and permanent Green Belt boundary.



- 3.4. The site is also within close distance to the proposed allocation to the south 'Land north of Linthouse Lane (site reference: 486c Policy SA2) and allocation of our site, Land at Blackhalve Lane, would link the two sites well.
- 3.5. It is clear that the locational sustainability of the entire site remains the same as the element which would be allocated in the Black Country Plan: there is no difference. We firmly believe the

council should reconsider their position in relation to the remainder of the site as to continue to treat it as an omission site would be a significant missed opportunity.

- 3.6. We would like to highlight the following points about the site: it has the capacity to deliver around 100 new homes (around 70 market and 30 affordable homes of mixed tenure) as well as green infrastructure (and necessary biodiversity net gain) and areas of sustainable drainage and other public benefits, during the first 5 years of the plan.
- The green infrastructure within the site would provide strategic public open space that was previously not available for local people. This represents a beneficial offset to the loss of Green Belt.
  - The Vision Document, already submitted at Issues and Options stage, sets out the constraints of the site, together with an indicative landscape-led masterplan for consideration. This shows the two parts of the site (in Wolverhampton and South Staffs) could work seamlessly together.
  - The site currently presents as a 'blank canvas' with very few constraints, bar the hedgerow and trees dotted within the site. The hedgerow and trees offer some habitat for birds and insects and would be largely retained within any new scheme, together with the creation of new biodiversity network within and through the site.
  - The site is entirely within Flood Zone 1, with no significant surface water drainage constraints. There would be space within the site for attenuation measures such as basins to be included.
  - Other than the Green Belt designation, the site is unaffected by any Footnote 7 designations included within the Framework.
- 3.7. For the reasons highlighted above, we urge that the council gives further consideration to our client's site at Blackhalve Lane, and it should be included as a housing allocation within the Publication Plan.