

P19 - 1796

16 August 2021

Planning Policy  
Middlesbrough Council  
PO Box 504  
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TS1 9FY

Dear Sirs

**Stainton & Thornton Draft Neighbourhood Plan - Submission Public Consultation**

These representations have been prepared on behalf of Miller Homes in relation to the Submission Draft of the Stainton & Thornton Neighbourhood Plan (STNP) which has been prepared by Stainton and Thornton Parish Council (STPC).

**1. Introduction and Context**

Miller Homes operates across the whole of the country. They are committed to providing high quality and sustainable housing developments which seek to assist in the Government's aim to significantly boost the supply of housing in order to put in place 300,000 new homes per annum.

They are active across Middlesbrough and the wider Teesside area and have a proven track record in delivering sustainable developments which create a sense of place and a well-designed environment. They are therefore keen to ensure that the STNP is prepared in a positive and robust way which enables sustainable development and growth to take place over the entire plan period and that is able to adapt to changes in the development industry and the economy more widely.

To this end, Miller Homes submitted representations to the previous draft of the STNP in November 2020. For completeness these are included in **Appendix 1** of these representations. It is noted that these comments are registered in the Consultation Statement (June 2021) produced by STPC and published alongside the STNP. These representations refer to this Consultation Statement where relevant.

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## **2. Our Client's Land Interest**

Our Client has a land interest within the Stainton & Thornton Neighbourhood Area (STNA, approved in March 2017). This is found in **Appendix 2** of this letter (land at Stainton Vale Farm). Our Client has previously promoted the site for residential development through the now withdrawn Middlesbrough Local Plan and intends to continue to promote it through the new Local Plan (currently under preparation).

It is considered that our Client's land interest can contribute to Middlesbrough's housing requirement over the plan period and provide a logical and sustainable addition to Stainton and ensure the settlement remains vibrant and successful into the future. Middlesbrough Council has previously acknowledged this through a housing allocation within the Publication Draft of the withdrawn Middlesbrough Local Plan (Policy H3.18). This covers our Client's land interest as part of a wider allocation. It is noted that the Council's latest Strategic Housing Land Availability Assessment (SHLAA) update continues to regard the wider site as developable within a 6 – 10 year timeframe. Our Client is keen to work with the Parish Council to bring forward its proposals.

## **3. Policy and Legislative Context**

In order that the STNP is able to progress towards the being a 'made' Neighbourhood Plan (and therefore come into force as part of the wider development plan), it will be necessary for it to meet the 'Basic Conditions' and a number of other legal requirements. National planning policy in the shape of the National Planning Policy Framework (NPPF, July 2021) in paragraph 37 and footnote 21 highlight that these are contained in Paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended). These are also replicated in the Planning Practice Guidance (PPG) which accompanies the NPPF and are:

- a) Having regard to national policies and advice contained in guidance issued by the Secretary of State.
- b) Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses. This however applies to Neighbourhood Development Orders only (and so is not applicable in this case).
- c) Having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area. This however applies to Neighbourhood Development Orders only (and so is not applicable in this case).

- d) The making of the neighbourhood plan contributes to the achievement of sustainable development.
- e) The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority.
- f) The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union obligations (as now incorporated into UK law).
- g) Prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

The NPPF is also clear with regards to the overall scope of neighbourhood plans and distinguishes this from strategic policies which should be contained in local plans. Paragraph 20 lists matters relating to strategic policies as:

***"...an overall strategy for the pattern, scale and quality of development, and make sufficient provision for:***

***a) housing (including affordable housing), employment, retail, leisure and other commercial development;***

***b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);***

***c) community facilities (such as health, education and cultural infrastructure); and***

***d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation."***

In contrast, non-strategic policies (those which can be covered by neighbourhood plans) are outlined in paragraphs 28 – 30 of the NPPF and cover the following areas:

- Allocating sites (in accordance with strategic policies);
- The provision of infrastructure and community facilities at a local level;
- Establishing design principles;
- Conserving and enhancing the natural and historic environment; and
- Setting out other development management policies.

The rationale for this approach is that the strategic policies in local plans are subject to a more rigorous examination process compared to that of neighbourhood plans and so it is imperative that the scope of the neighbourhood plan policies flows from the strategic policies rather than the neighbourhood plan addressing strategic policies itself.

It is against this background that we provide comments on the STNP below.

#### **4. General Comments on the Overall Approach to the Submission Draft of the Neighbourhood Plan**

Our previous comments on the draft STNP outlined a number of matters which can be summarised as:

- Concerns regarding the misalignment of plan periods between the strategic policies against which the STNP has been prepared (2014 Housing Local Plan which has a plan period up to 2029) and the STNP itself which has a plan period which runs beyond this (up to 2035). It was not explained how the STNP can be based on these strategic policies whilst also running 6 years beyond its plan period.
- In addition to this the 2014 Housing Local Plan itself cannot be regarded as up-to-date in terms of providing the current needs for Middlesbrough (hence the preparation of a new Local Plan). The risk of basing the STNP on the 2014 Housing Local Plan is that upon adoption of the new Local Plan, many policies of the STNP will then be regarded as out of date. This is important given that NPPF makes it clear that Neighbourhood Plans should not propose less development than strategic policies (paragraph 29).

We also highlighted that Sustainable Development Principles should include a reference to assisting housing delivery in the STNA that comes through the emerging Local Plan. This could assist in ensuring key elements of the STNP remain up to date once the new Local Plan is adopted.

We note that the STPC has responded to these points in their Consultation Statement

highlighting that the plan will be reviewed every five years and amended to reflect changes in the NPPF and changing needs of the community and that should the emerging Local Plan be able to justify the need for further sites, then they will examine each on a site-by-site basis.

We do not consider that this addresses the points we have raised. We appreciate that the STNP will seek to review the plan to ensure consistency with the NPPF but this does not explain how the STNP's plan period runs beyond that of the current strategic policy yet at the same time the STPC regards the housing growth contained in the 2014 Housing Local Plan as sufficient. It is therefore not clear at all what the strategy for growth is beyond 2029 when the 2014 Housing Local Plan is time expired.

Whilst the STPC has raised the point about a review of the STNP, it should be emphasised that the plan period for the STNP is up to 2035 and so it should provide a strategy for up to this point and only review at a point when elements are out of date. The inference from STPC's response is that they would seek to review the STNP to resolve what happens in the last 6 years of the plan period. This is clearly contrary to the NPPF and does not meet the basic conditions of being consistent with the strategic policies on which the STNP is based.

Indeed, the Sustainable Development Principles on page 11 of the STNP state that one of the aims of the plan is to '*planning positively for housing growth to meet the needs of present and future generations...*' This however cannot be achieved based on the current approach.

To remedy this, the STNP needs to be altered so that the plan period aligns with the 2014 Housing Local Plan, or that it needs to be clear about what the strategy is beyond 2029 and as we have suggested previously, adding in the Objectives or Sustainable Development Principles that the STNP will assist housing delivery in the STNA that comes through the emerging Local Plan.

## **5. Comments on the Individual Policies of the Submission Draft of the Neighbourhood Plan**

Having set out our overall views on the STDNP, we comment on the specific policies of the document below.

## **Policy ST1 – Green Infrastructure, Green Spaces and Natural Environment**

Our previous comments on this outlined the view that this policy (previously Policy ST1a) was more strategic in nature and so should not be in the STNP but rather form part of the emerging Local Plan where such matters can be determined on a much broader basis given that matters of Green Infrastructure and Green Spaces are often linked up over wider areas.

Irrespective of this, we considered the policy inflexible in that it outlines the need to protect 'net loss' of Green Infrastructure. This appears to be a blanket policy which should instead take account of the need to balance protection with the need for growth (as set out in the Sustainable Development Principles). We outlined that some development proposals may result in the loss of Green Infrastructure in quantitative terms, it may be that they offer the opportunity to improve the remaining Green Infrastructure on a site in qualitative terms. The policy should therefore be more specific in this way and rather than requiring the submission of an alternative scheme, should take into account any qualitative improvements that could be made on development sites. This would ensure a much more positive and flexible policy response which better reflects the thrust of the NPPF.

The points we raised have not been adequately addressed in the STPC's Consultation Statement, rather it makes reference to a Government paper (dated July 2019) which talks about biodiversity net gain but does not mention Green Infrastructure or Green Spaces specifically and how this links to biodiversity net gain. The STNP also needs to identify clearly what it regards as Green Infrastructure as currently this is not shown on any mapping. Our Client therefore reserves the right to comment on this further when detailed mapping is available to establish the potential impact this would have on its land interest.

As a result of this, our previous objections to this policy still stand and we do not consider it meets the basic conditions by being consistent with national policy or being positively prepared.

## **Policy ST2 – Local Green Spaces**

Our previous comments on this policy (previously ST1b) outlined our concerns that mapping was not provided to clearly identify Local Green Spaces and that justification and evidence was not provided for the requirement for developments over 25 dwellings to provide children's play facilities (other than it being a desire of the local community). That is to say there has been no study looking at play spaces in the STNA and forecasting need over the plan period.

We note that clearer mapping has now been provided which outlines the extent of the proposed Local Green Spaces as well as the existing Green Wedge designation and Limits to Development Boundary.

Firstly, we do not consider the Green Wedge designation and Limits to Development Boundary should be provided on the plan as there is no corresponding policy in the STNP and they are merely copied over from existing development plan documents. As the NPPF advises against replicating existing policies (paragraph 16f) then these should be removed from the mapping.

Second, in relation to the proposed Local Green Spaces, we note that one is proposed on land next to our Client's land interest known as Stainton Low Wood (Site 6 in Policy ST2 and also identified as LGS1).

The ability for neighbourhood plans to designate Local Greenspace is covered by paragraph 102 of the NPPF. This outlines that these should only be designated in the following instances:

- In reasonably close proximity to the community it serves;
- Demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- Local in character and is not an extensive tract of land.

The PPG provides further guidance on the designation of Local Greenspace in that it will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making (Reference ID: 37-007-20140306).

In relation to the evidence to underpin Stainton Low Wood as a Local Green Space, Appendix 4 of the STNP simply outlines that:

***"This is a woodland area with public access, which incorporates wildflower meadows. There are public Rights of Way towards Thornaby through the area."***

We do not consider that this itself provides the evidence for the designation of the land as Local Green Space. For instance, there is nothing to demonstrate need or that the land is demonstrably special for the local community. It should be noted that as Local Green Spaces afford a high degree of policy protection for those areas which benefit from this designation, the evidence to justify them should be robust.

We consider that such evidence does not exist and therefore the Local Green Space for Stainton Low Wood should be removed.

In relation to our previous comments on children's play facilities, the comments made in the Consultation Statement do not address the points we raised and seem to confuse our point with the adoption of a CIL Charging Schedule.

The point we raised is that all planning obligations (whether CIL or not) need to pass the statutory tests within Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) (replicated in paragraph 55 of the NPPF). These are that these requirements are:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

Whilst it may be desirable for the local community to see play facilities associated with all development proposals over 25 dwellings, this needs to be clearly evidenced in order to pass the above statutory test. We are keen to work with the Parish Council to discuss this aspiration further, but any such requirements will have to be underpinned by evidence of the need for such facilities and taking into account the policies of the emerging New Local Plan. Current this is not the case and so this part of the policy is unjustified and should be removed.

### **Policy ST3 – Natural Environment**

Our previous comments on this policy (previously Policy ST1c) outlined our concerns that mapping had not been provided to clearly identify the views identified in the policy (now in Part 2). This remains the case and so on this basis alone the policy is flawed as it does not allow consultees to fully scrutinise this. Our Client therefore reserves the right to comment on this further when detailed mapping is available to establish the potential



impact this would have on its land interest.

Irrespective of this, we continue to consider that this policy covers strategic matters which are better dealt with through the emerging Local Plan given that landscape views/impact may take in wider areas which go beyond the STNA and matters relating to ecology and Public Rights of Way are similarly Borough-wide issues.

As outlined in our previous comments, the policy in relation to landscape protection remains inflexible in nature and should be amended to reference that, where it is appropriate, development should be accompanied by landscape and visual appraisals which can assess the landscape impact of a development and suggest (where necessary) appropriate mitigation. Ultimately impact in relation to landscape should be a matter for consideration when examining the wider planning balance which will need to weigh this impact against the benefits of development proposals. This is not currently reflected in the policy and so it requires amending in this way to ensure that it is a positively prepared policy that can encourage sustainable development in line with the NPPF.

Similarly, we have previously raised that greater flexibility with regards to Public Rights of Way and ecology is required to acknowledge that at times, the diversion of Public Rights of Way may be required in association with development proposals (and this may in some instances present a benefit) and that where there is an ecological impact associated with development proposals, this can be addressed through relevant mitigation. The Consultation Statement provided by STPC does not adequately address these concerns and claims they are comments from a 'client's perspective'. This is incorrect, they are comments which align with the NPPF and will help ensure that an appropriate balance is provided to enable the plan to be positively prepared (paragraph 16) and so that the STNP can meet the Basic Conditions.

The policy should thus be phrased to provide this flexibility to allow each development proposal to address these matters in their own site-specific manner rather than tying all sites down to specific measures such as habitat linkages and links to wildlife corridors which may not be applicable/achievable on all sites.

#### **Policy ST4 – Heritage Assets**

Our Client is supportive of the need to protect heritage assets in the STNA. Our previous comments on the policy (previously Policy ST2) however considered the policy too rigid and inflexible in nature, specifically in relation to development which sits within and is in the setting of Stainton and Thornton Conservation Area. The concern expressed was that the policy, as drafted, would unduly stifle well-designed development coming forward by

seeking to impose certain styles/forms of development. For instance, protecting key views would need to be determined on a case-by-case basis and the requirement for low densities within the setting of the Conservation Area may not universally apply and clearly needs to be balanced with the requirements in the NPPF to use development land efficiently (paragraph 124). Such approaches in terms of views and densities will need to be informed at the application stage by the relevant heritage and design work where the significance of the heritage asset in relation to the development proposals can be appropriately assessed.

The response in STPC's consultation statement emphasises the need to protect heritage assets. We would not dispute this and consider the NPPF does this by striking a balance between the value of any heritage asset and the potential impact a development proposal may have. We do not consider this is reflected in Policy ST4 which instead takes a much more rigid view of the protection of heritage matters which does not allow for site specific considerations to be taken into account. The policy does not therefore meet the Basic Conditions and need to be amended so that it better reflects the NPPF.

Our previous comments on this policy also highlighted that it covers matters relating to archaeology which appears more general in nature and so we consider is a strategic policy (see paragraph 20(d) of the NPPF) which should not be covered by the STNP. We outlined that this part of the policy should therefore be removed. As this element is retained in the current draft of the STNP, then this objection remains.

Irrespective of this, the policy appears to take a strict view on the matter in relation to development proposals which outlines that such sites should be protected and whenever possible, enhanced to allow further knowledge of such sites. This does not reflect the requirements in the NPPF (paragraph 205) which allows a more flexible approach depending on the significance of any finds. If retained, the policy should be amended to more closely reflect the requirements of the NPPF.

### **Policy ST5 – Community Assets**

This policy mentions the need to increase community facilities commensurate to any proposed growth in population. This is taken to mean new residential development in the STNA.

In this respect our Client agrees that the provision of supporting services to go alongside residential development can be important and help underpin sustainability, however the requirement to provide/contribute to such facilities needs to be justified through an Infrastructure Delivery Plan (IDP) which can assess and justify when such services are

required. Producing an IDP is clearly a strategic matter which should therefore be covered by strategic policies in the new Local Plan (see paragraph 20 of the NPPF) and include considerations such as plan viability, the wider network of provision and the timing of such provision. Such requirements can then be thoroughly tested at a local plan examination where they can be scrutinised in detail. This echoes our previous comments made.

Where the protection of existing facilities is mentioned, our Client believes these should be considered carefully. Our Client's land interest at Stainton Vale Farm lies near the Sporting Lodge and the STNP needs to ensure that this policy remains consistent with the master planning exercise for the wider Stainton Vale Farm site and any emerging policy within the new Local Plan so there is no conflict between Policy ST5 and future development plan policies.

### **Policy ST6- Traffic/Parking/Public Transport and Roads.**

Our previous comments on this policy (previously Policy ST4) outlined that the approach to parking was rigid and did not allow sufficient flexibility depending on public transport access. This part of the policy is now amended so that the Tees Valley Highway Design Guide is to be used as a starting point when discussing parking provisions. Such flexibility in the policy is welcomed. The policy also acknowledges the balance between managing car parking in new developments and ensuring that parking does not dominate design.

As outlined previously, whilst the approach to minimum garage sizes appears logical (6m x 3m for a single garage and 6m x 5.5m for a double garage), the policy would benefit from a similarly flexible approach than that expressed for parking spaces above. Such flexibility would better align with the NPPF.

The latter part of the policy relates to the need to secure any required highway improvements through a S106 agreement. It should be highlighted however that there are other mechanisms to achieving highway improvements (eg. through a S278 agreement instead). These also need to be referenced. Notwithstanding this, matters relating to transport infrastructure are clearly the remit of strategic policies (see paragraph 20(b) of the NPPF) as such, measures need to take a broader view of the transport network beyond the STNA and be tested thoroughly at a local plan examination. Therefore, this element of the policy should be deleted, and it should be covered by the emerging Local Plan rather than the STNP. This echoes our previous comments made.

The policy also states that all new residential and commercial development should be served by sustainable transport links (including bus routes, cycle routes, footpaths and transport provision subsidies). However, the ability to do this would depend on site specific

characteristics, current sustainable transport linkages and the viability and feasibility of doing this. Without sufficient caveats to this part of the policy, it may frustrate development coming forward and would not represent positive planning as required in the NPPF (paragraph 16).

In relation to bus routes specifically this may be a laudable aim and our Client would be happy to discuss this aspiration further with the Parish Council, the requirement to support/contribute to a bus route would need to be justified on a site-by-site basis according to the Regulation 122 of the CIL Regulations 2010 (as amended) (outlined previously in these representations). It is likely to be the case that this may therefore not apply to all sites. It also needs to be highlighted that for this to happen, there would also need to be agreement with the bus operator and so it is not guaranteed that they would agree to any changes to existing bus services.

### **Policy ST7 – Infrastructure and Rights of Way**

As outlined in our previous representations, matters relating to infrastructure should be covered by strategic policies through the local plan process and the NPPF only allows the ability to address infrastructure through non-strategic policies if they are at a local level. We regard the policies in this instance to be strategic in nature and so should be provided through the new Local Plan. This allows these policies to be thoroughly tested and scrutinised through the local plan examination process and to take into account such matters on a borough-wide basis and be subject to plan-wide testing (including on matters relating to viability). We therefore believe such policies are beyond the remit of the STDNP and so should be deleted.

Notwithstanding this, it is important to emphasise that we agree with the STPC that the infrastructure is needed to support new development. However, the timing of this is crucial and should be provided at the point in time it is needed. This would ensure that the delivery of the infrastructure is at the correct time but would not affect site delivery or viability. Currently, the policy appears to infer that infrastructure should be put in place first which conflicts with paragraph 11 of the NPPF which seeks to align growth and infrastructure; not put one in front of the other. Such phasing of infrastructure is usually assessed at the planning application stage, will be site specific and covered by relevant planning conditions and obligations.

This part of the policy is not helped in that it states the 'road infrastructure must be put in place as part of any future strategic development to prevent further congestion at the A19/A174 junction, which is already at full capacity'. This statement does not appear to be supported by evidence and is not specific in terms of road infrastructure which is

needed. This part of the policy should therefore be deleted and in any event is clearly strategic in nature and so should not form part of this policy anyway.

Whilst elements of creating good quality cycle links can be supported and are important, it may be the case that some of the measures included within the policy are not feasible and deliverable on some sites (owing to constraints or location). As such, there needs to be an acknowledgment of this and such flexibility built into the policy text. This will ensure a more robust policy response. The same is applicable for other elements such as 'green links'. Indeed, these need to be identified on a map (along with the Public Rights of Ways which have been mentioned). Our Client therefore reserves the right to comment on this further when detailed mapping is available to establish the potential impact this would have on its land interest.

### **Policy ST8 – Services/School/Shops/Unicorn Centre/Larchfield**

We reiterate the points previously made under Policy ST5 in these representations in that our Client agrees that the provision of supporting services to go alongside residential development can be important and help underpin sustainability, however the requirement to provide/contribute to such facilities needs to be justified through an Infrastructure Delivery Plan (IDP) which can assess and justify when such services are required. Producing an IDP is clearly a strategic matter which should therefore be covered by strategic policies in the New Local Plan (see paragraph 20 of the NPPF) and include considerations such as plan viability, the wider network of provision and the timing of such provision. Such requirements can then be thoroughly tested at a local plan examination where they can be scrutinised in detail.

As outlined in Policy ST5, where the protection of existing facilities is mentioned, our Client believes these should be considered carefully. Our Client's land interest at Stainton Vale Farm lies near the Sporting Lodge and the STNP needs to ensure that this policy remains consistent with the masterplanning exercise for the wider Stainton Vale Farm site and any emerging policy within the new Local Plan so there is no conflict between Policy ST8 and future development plan policies.

### **Policy ST9 – Design Principles**

Our Client believes that good design is an important component to sustainable development, this needs to be able to be adaptable to site specific circumstances and not seek to impose certain styles over large areas.

Our previous representations highlighted that many of the requirements in this policy (previously Policy ST7) are overly prescriptive and rigid in nature and are not supported by evidence.

The Consultation Statement prepared by STPC does not address this point, only that the policy criteria reflect the views of local residents. Whilst such views need to be taken into account and are important, given the implications of such policies on the deliverability of development over the plan period, we continue to consider that there is inadequate justification for these policies.

This includes the requirement for a maximum of 2 storey developments only. Such a blanket-wide policy across the STNA is not substantiated and would surely need to be assessed on a site-by-site basis. Likewise, the requirement for lifetime homes and 10% bungalows is not supported by local evidence outlining that they are required in this area. The Consultation Statement only outlines that there is an ageing population. However, it is worth noting that the PPG specifically outlines that the following details would need to be examined in such circumstances:

- Current and future population projections;
- The amount who will need adaptations to homes;
- Knowledge of the number of existing homes which can be adapted; and
- Viability of the measures introduced.

The current information available does not give all this information, so currently it is considered this part of Policy ST9 cannot be justified and should therefore be deleted. The criterion to preserve and enhance significant views and vistas will need to be explained further in relation to an assessment of landscape impact, any mitigation proposed and an examination of the wider planning balance. It should be noted that the area does not include any specifically protected landscape areas (such as Areas of High Landscape Value).

We therefore consider that there is insufficient justification for this policy, so it should be deleted.

### **Policy ST10 – New Developments on Green Field Sites (Rate of New Builds/Density/Landscaping/Green Corridors)**

Our previous representations raised a number of concerns with this policy (previously Policy ST8). It is noted that the policy acknowledges that the emerging Local Plan may allocate additional greenfield sites within the STNA and our Client is pleased that this has

been acknowledged, however a large number of concerns remain in relation to the policy and the Consultation Statement does not address these and does not provide any further evidence and justification for the policy's approach.

As such our original objections still stand and specifically the STNP continues to make reference to the quantum of development for the area over the plan period to be linked to the adopted 2014 Housing Local Plan (in that they 'feel' that this provides enough housing). Our issue with this approach is explained in Section 4 of these representations and relates to the age of the plan (and therefore the robustness of its calculation of housing requirements) plus the misalignment in plan period. Our view is that the STNP should be linked to the emerging New Local Plan which Middlesbrough Council is preparing and be clear in addressing non-strategic matters only (as required by paragraphs 28-30 of the NPPF). This will ensure that the STNP remains an up-to-date plan upon adoption of the New Local Plan.

The policy justification provided also seems to infer a sequential approach to the development of brownfield land. This is inconsistent with the NPPF which seeks to encourage the development of brownfield sites rather than mandating a sequential approach (paragraph 117). This text therefore needs to be amended accordingly.

The policy justification also contains an extract from some of the evidence base of the now withdrawn Middlesbrough Local Plan. This relates to the Landscape and Heritage Assessment (2016). This references the wider site in which our Client has a land interest at Stainton Vale (Parcel 21). However, this is only a small part of Middlesbrough Council's wider evidence base and so cannot be relied upon solely when examining potential new housing sites, rather wider matters including housing requirements and site viability/deliverability need to be considered alongside other development management issues. To consider landscape and heritage in isolation when examining these parcels of land is misleading.

The policy itself provides very specific criteria which we do not deem flexible enough to apply to all sites, some which should be covered by strategic policies (and so should not be in the STNP) and in some instances the criteria do not appear to be supported by robust evidence. We note these have changed slightly when compared to the previous draft, so we comment on these in Table 1 below.

**Table 1 - Commentary on Policy ST10 Criteria**

<b>Policy Criteria</b>	<b>Commentary</b>
Create distinct new communities designed to instil a sense of place, containing a	Our Client agrees that creating a sense of place is important, although not all

<p>community centre, shops and other local services on a scale that meets the needs of the new community.</p>	<p>development will require facilities such as community centres and shops as this will depend on existing local provision and the need generated from any new development. This needs to be informed by an IDP and outlined in the area's strategic policies (to be contained in the New Local Plan).</p>
<p>Incorporate a diverse housing mix with a variety of house types, sizes and tenures; including flexible lifetime homes and bungalows; that reflect the current and projected age structure and health limitations i.e. 30% of build to be smaller homes or the housing requirement (size) as identified by the local housing needs assessment and must include bungalows to meet Policy ST9.</p>	<p>Matters relating to housing mix are strategic in nature given that they should relate to the wider Housing Market Area (see paragraph 20 of the NPPF). As such, this is a strategic policy which should not be included within the STNP and instead be a matter for the New Local Plan.</p> <p>Nevertheless, any housing mix provided on development sites will need to also be informed by market knowledge in relation to meeting demand. Whilst the requirement for lifetime homes, bungalows and smaller homes is noted, this needs to be underpinned by robust evidence (again informed by market knowledge and guided by the PPG including considering viability). Currently we do not believe that this evidence has been provided and so such requirements should be removed from the policy.</p>
<p>Include affordable housing in line with local plan policy requirements.</p>	<p>We do not have any comments on this criterion.</p>
<p>Provide an open and attractively landscaped development of low-density housing on the built areas within the development.</p>	<p>Providing an attractive landscape setting for development proposals assists in creating a high-quality design but this needs to be balanced with using the site efficiently.</p> <p>In this respect our Client objects to the blanket imposition of an undefined 'low-density' across the STNA. This clearly needs to be informed on a site-by-site basis and take into account the approach in the NPPF which seeks to make efficient use of development land (paragraph 124) as well as viability. The policy should therefore be amended accordingly.</p>
<p>Include a strong landscape buffer where the development adjoins the countryside to reduce the visual impact of the development and create a continuous</p>	<p>Whilst this approach may be appropriate for some development sites and our Client would be happy discuss this with the Parish Council, it may not be applicable to others</p>



<p>habitat for wildlife linked into existing natural areas and wildlife habitats.</p>	<p>and the requirement for such measures will need to be determined on a case-by-case basis and informed by the site's opportunities and constraints. This criterion therefore should be amended accordingly.</p>
<p>Include landscaped open spaces, roads and footpaths, incorporating children's play areas, throughout the development linked to the peripheral landscape buffer to provide green routes through the housing areas that enhance the quality of the development and provide wildlife habitats.</p>	<p>As outlined earlier in our representations, we would welcome dialogue with the Parish Council in relation to this, although the requirement will need to be informed by a detailed assessment which examines future need and existing provision in the area. This evidence will need to be provided and will need to align with the strategic approach of the emerging New Local Plan.</p> <p>The ability to provide such features will also depend on site opportunities and constraints and so cannot be a 'one size fits all' approach.</p>
<p>Link new footpath and cycle way routes through the development to routes in the countryside, to existing adjacent communities, to schools, community facilities and the town centre.</p>	<p>The ability to achieve links through to the countryside and other facilities will depend on the characteristics of the development site and landownership matters. Whilst such measures can be encouraged, they may not be achievable in all instances. This criterion therefore should be amended accordingly.</p>
<p>Retain existing farmsteads, trees, hedgerows, ditches, watercourses, and heritage assets within the development.</p>	<p>This will again depend on site characteristics and opportunities and constraints. Retention of such features will need to be assessed at the planning application stage where a detailed examination of such issues can be undertaken, and mitigation put forward (where applicable). This criterion therefore should be amended accordingly.</p>
<p>Maintain a green strategic gap preventing coalescence between Thornton and Maltby; Rose Cottage Farm and Thornton; Thornton, Stainton and Hemlington Grange this will retain the character of the village identity, preventing further erosion of the village status</p> <p>In order to maintain this gap, no major development should be permitted in Thornton and every effort must be made to prevent the merger of the development of</p>	<p>Issues relating to strategic gaps are clearly matters which should be covered by strategic policies within the emerging New Local Plan rather than the STNP (which should only cover non-strategic policies). This is evident when examining paragraph 20 of the NPPF as it relates to the pattern of development.</p> <p>Irrespective of this, no evidence has been provided to justify these green strategic gaps and we note that the 'Green Strategic</p>

<p>the Hemlington Grange site to the rest of Stainton Village (Cedarwood Glade).</p>	<p>Map' does not currently exist and so our Client reserves the right to comment on this further once this information is available.</p> <p>As such, this criterion should be deleted.</p>
<p>Address any significant impacts arising from an increase in traffic on the road network between Stainton, Low Lane and the A174. This should include mitigation measures identified by Transport Assessments which may include improvements to the junctions from the villages to the Strait Lane/Low Lane Junction and the Low Lane junction with the A174 as well measures to discourage traffic from the new development using minor roads through the villages in the Plan area and sympathetic traffic calming where necessary. Adequate measures should be discussed as part of the application and not delegated to a condition and in some instances measures should be put in place prior to the occupation of the first dwelling in the relevant proposal.</p>	<p>As this policy relates to transport infrastructure, this is clearly a matter for strategic policies (see paragraph 20 of the NPPF) and should therefore be addressed in the emerging New Local Plan rather than in the STNP. The criterion should therefore be deleted.</p> <p>Irrespective of this, our Client agrees that a Transport Assessment should, where appropriate, be submitted in support of development proposals with discussions in relation to any necessary highway works to be undertaken with Middlesbrough Council. This again underlines that this is a strategic matter to be discussed with the local authority.</p> <p>The timing of any such works would need to be discussed and agreed through the planning application process and appropriately phased according to need, viability and deliverability. If retained, this needs to be included in the criterion.</p>
<p>Avoid areas at risk of flooding and incorporate sustainable drainage measures to manage rainwater run-off from the development.</p>	<p>Whilst our Client agrees that sustainable drainage measures should be included as part of development proposals, this should only be where this is feasible to do so. Flood risk matters should be considered through site specific Flood Risk Assessments submitted with planning applications.</p> <p>This therefore requires amending to reflect this.</p>
<p>Assist in meeting Middlesbrough Council's housing need, where necessary by continuing to support new developments on the edge of Middlesbrough which take into consideration their rural fringe locations and which do not compromise the green gaps (coalescence) subject to design, layout, environmental and traffic impact considerations.</p>	<p>Our Client agrees with this criterion as it appears to acknowledge such issues should be addressed on a site-by-site basis and assessed through the new Local Plan (as this is a strategic matter). The elements relating to green gaps (coalescence) and environmental and traffic impact considerations should be removed as they too are areas covered by strategic policies</p>

	(as defined in paragraph 20 of the NPPF).
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### **Policy ST11 – Planning Obligations**

Our Client agrees that it is necessary to ensure relevant infrastructure is in place to support future development proposals and would be happy to discuss this with the STPC at the appropriate time in relation to their site interest.

However, as raised in our last representations, Paragraph 20 of the NPPF outlines that matters relating to the provision of infrastructure (which is often provided by planning obligations) should be covered by strategic policies with only local infrastructure to be included within neighbourhood plans (as non-strategic policies). This is so they can take into account wider issues of viability, Borough-wide provision and how infrastructure in the STNA sits within a wider area. It also allows greater scrutiny of planning obligations to be undertaken through a local plan examination. As we consider the approach in this policy to be more strategic in nature, these matters should be covered by the new Local Plan and should be removed from the STNP as they are beyond its remit.

The fact that such obligations need to be agreed with Middlesbrough Council (rather than the Parish Council) as one of the signatories of any planning obligation further underlines this point. These will need to take a broad view on any requirements needed to support development proposals and ensure they pass the statutory tests found in Regulation 122 of the CIL Regulations 2010 (as amended).

Whilst it is clear that there may be the need for some involvement of the STPC in these discussions, these ultimately need to be driven by the developer and Middlesbrough Council.

In their Consultation Statement, STPC agree that such matters are strategic (and so contrary to the NPPF) but then have not removed this from the STNP. This has not been explained.

Appendix 9 of the STNP (which is referred to in this policy) contains a list of obligations/contributions formulated by the Parish Council. As outlined earlier in these representations, the requirement for infrastructure needs to be informed by a detailed assessment in an IDP which can examine these requirements in more detail and explore deliverability and viability considerations alongside this. This clearly needs to be undertaken at a strategic level to inform strategic policies within the emerging new Local Plan rather than be contained in the STNP. Whilst the PPG allows for the provision of local level infrastructure to be outlined in non-strategic policies (and thus neighbourhood plans) (Reference ID: 41-005-20190509), it is clear that these need to be informed by strategic

level requirements. As these will be coming through the emerging new Local Plan, then Appendix 9 cannot comply with the PPG. It is also unclear on the justification of the list of obligations/contributions whether these pass the aforementioned Regulation 122 tests and whether the viability implications of these are understood (or whether this is simply a 'wish list' from STPC). As this is the case, reference to Appendix 9 should be removed from the policy.

In relation to viability specifically, these matters should be discussed between the developer and Middlesbrough Council and do not need to involve STPC.

### **Policy ST12 – Renewable Energy and Energy Efficiency**

Our Client recognises that climate change is key challenge which needs to be addressed and that there is a pressing need to provide energy efficient homes. However, we consider that paragraph 20(d) of the NPPF is clear that matters relating measures to address climate change mitigation and adaptation should be strategic policies to be contained in a local plan and not within a neighbourhood plan. This is therefore beyond the remit of the STNP and should be removed. This is consistent with our previous representations.

Nevertheless, we consider that whilst those features in the policy can help make a contribution to tackling climate change, the ability to incorporate these on every site will depend on site-specific circumstances. It should also be highlighted that such energy efficiency measures are included in building regulations (which are revised regularly to increase standards, for example the forthcoming introduction of Future Homes) and to go over and above building regulations should require specific evidence including consideration of viability (as required by the PPG) and assessing which measures are the most effective. This is important given that some of the features outlined would add substantially to the cost of each new home.

## **6. Summary and Conclusions**

These representations to the Submission Draft of the Stainton and Thornton Neighbourhood Plan (STNP) have been prepared on behalf of Miller Homes and follows on from previous representations prepared on the previous draft of the plan in November 2020 (see **Appendix 1**).

Miller Homes is a national housebuilder with a land interest in the area (see **Appendix 2** of this letter). They have an excellent track record of delivering sustainable housing locally and are therefore keen to be involved in the shaping of the STNP to ensure it is a robust document which meets the 'Basic Conditions' and which allows the area to benefit from

future growth. This future growth is necessary to ensure the area remains a thriving and viable place over the next 15 – 20 years.

In this instance, we believe that the STNP's overall approach should more explicitly support the emerging housing allocations coming through the future new Local Plan. This link to Middlesbrough Council's emerging new Local Plan will ensure the STNP's strategy is up to date. Currently the approach to basing the STNP on the strategy for growth in the 2014 Housing Local Plan is not a robust position given that it does not reflect the current needs of the area and does not have a plan period which aligns with the STNP.

The scope of a neighbourhood plan is to provide non-strategic policies, and this is made clear within the NPPF and PPG, with strategic policies to be provided in local plans. In some instances, we consider policies within the STNP are more strategic in nature and should therefore be removed (as they are beyond the remit of the plan).

In other instances, the policies within the plan also need to be more flexible to ensure they can apply to all sites, are adaptable to changing conditions over the plan period and also are able to be positively prepared to encourage the development that is required. Currently we have concerns that the policies do not achieve this and so we object to the STNP on this basis. These policies require either amending or deleting to ensure alignment with national planning policy and guidance.

We also observe some mapping is still lacking from the plan and so on some policies it has been difficult to ascertain the impact on our Client's land interest. These should be provided and consulted on prior to the STNP going to examination.

We trust that these comments will assist the preparation of the STNP going forward. If you require any further clarification, please do not hesitate to contact me.

Yours faithfully

**Chris Martin MRTPI**  
Associate Planner

[Redacted signature]

Enc.

## **Appendix One**

P19 - 1796

30 November 2020

Stainton and Thornton Parish Council  
13 Strait Lane  
Stainton  
Middlesbrough  
TS8 9BB

Dear Sirs

**Stainton and Thornton Draft Neighbourhood Plan (October 2020)**  
**Comments submitted on behalf of Miller Homes**

On behalf of our client, Miller Homes, we submit representations in relation to the Stainton and Thornton Draft Neighbourhood Plan (STDNP).

Our Client is a national housebuilder which is active within the local area and is therefore a key stakeholder in the plan-making process. We are therefore keen to ensure that the STDNP is prepared in a positive and robust way which enables sustainable development and growth to take place over the entire plan period and that is able to adapt to changes in the development industry and the economy more widely.

**1. Policy and Legislative Context**

In order that the STDNP is able to progress towards the being a 'made' Neighbourhood Plan (and therefore come into force as part of the wider development plan), it will be necessary for it to meet the 'Basic Conditions' and a number of other legal requirements. National planning policy in the shape of the National Planning Policy Framework (NPPF, February 2019) in paragraph 37 and footnote 21 highlight that these are contained in Paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended). These are also replicated in the Planning Practice Guidance (PPG) which accompanies the NPPF and are:

- a. Having regard to national policies and advice contained in guidance issued by the Secretary of State.
- b. Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses. This however applies to Neighbourhood Development Orders only (and so is not applicable in this case).
- c. Having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area. This however applies to

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- Neighbourhood Development Orders only (and so is not applicable in this case).
- d. The making of the neighbourhood plan contributes to the achievement of sustainable development.
  - e. The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority.
  - f. The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union obligations.
  - g. Prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

The NPPF is also clear with regards to the overall scope of neighbourhood plans and distinguishes this from strategic policies which should be contained in local plans. Paragraph 20 lists matters relating to strategic policies as:

***"...an overall strategy for the pattern, scale and quality of development, and make sufficient provision for:***

***a) housing (including affordable housing), employment, retail, leisure and other commercial development;***

***b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);***

***c) community facilities (such as health, education and cultural infrastructure); and***

***d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation."***

In contrast, non-strategic policies (those which can be covered by neighbourhood plans) are outlined in paragraphs 28 – 30 of the NPPF and cover the following areas:

- Allocating sites (in accordance with strategic policies);
- The provision of infrastructure and community facilities at a local level;
- Establishing design principles;
- Conserving and enhancing the natural and historic environment; and
- Setting out other development management policies.

The rationale for this approach is that the strategic policies in local plans are subject to a more rigorous examination process compared to that of neighbourhood plans and so it is



imperative that the scope of the neighbourhood plan policies flows from the strategic policies rather than the neighbourhood plan addressing strategic policies itself.

It is against this background that we provide comments on the STDNP below.

## **2. Our Client's Land Interest**

Our Client has a land interest within the Stainton and Thornton Neighbourhood Area (STNA, approved in March 2017). This is found in **Appendix 1** of this letter (land at Stainton Vale Farm). Our Client has previously promoted the site for residential development through the now withdrawn Middlesbrough Local Plan and intends to continue to promote it through the New Local Plan (currently under preparation).

It is considered that our Client's land interest can contribute to Middlesbrough's housing requirement over the plan period and provide a logical and sustainable addition to Stainton and ensure the settlement remains vibrant and successful into the future. Middlesbrough Council has previously acknowledged this through a housing allocation within the Publication Draft of the withdrawn Middlesbrough Local Plan (Policy H3.18). This covers our Client's land interest as part of a wider allocation. It is noted that the Council's latest Strategic Housing Land Availability Assessment (SHLAA) update (which is currently published for consultation) continues to regard the wider site as developable within a 6 – 10 year timeframe. Our Client is keen to work with the Parish Council to bring forward its proposals.

It is against this background that we set out our views on the STDNP below.

## **3. Comments on the Draft Neighbourhood Plan**

### ***Approach to Growth and Alignment with Strategic Policies***

The introductory sections of the STDNP outline the recent developments that have taken place within the STNA in recent years. This makes reference to Middlesbrough Council's adopted 2014 Housing Local Plan and indeed paragraph 2.3 of the STDNP makes reference to the 2014 Housing Local Plan being the relevant strategic document at the time of preparing the STDNP. It is therefore considered that this is the strategic document on which the STDNP is based with footnote 16 of the NPPF requiring that neighbourhood plans be in conformity with the strategic policies contained in the development plan that covers the area.

As this is the case, our Client has concerns that the STDNP is progressing based on a document which is now some 6 years old and one which does not reflect the growth requirements of Middlesbrough over the next 15 - 20 years. Indeed, the stated plan period for the STDNP is 2020 – 2035, whilst the 2014 Housing Local Plan's plan period is up to 2029. The two documents are therefore misaligned and it is not explained how the STDNP can be based on the 2014 Housing Local Plan whilst also planning for some 6 years beyond its plan period.

Later in section 15 of the STDNP the document states that the neighbourhood plan group supports the current 2014 Housing Local Plan allocations and believes these provide the required levels of new housing within the parish over the plan period. No evidence is provided to substantiate this point and it should be noted that the 2014 Housing Local Plan is not based on up to date growth figures for the area (hence Middlesbrough Council is preparing its New Local Plan) and as this is the case, and the two plan periods do not align, our Client suggests that this should be re-examined to ensure that the required growth for the area can be addressed through the STDNP.

It should be highlighted that the NPPF is clear that neighbourhood plans should not promote less development than set out in the strategic policies for the area (paragraph 29). This is supplemented by paragraph 16 highlights that plans should be prepared positively and in way which is aspirational but deliverable. This is echoed in the PPG specifically for neighbourhood plans (Reference ID: 41-005-20190509).

Taking all of this into account and given that Middlesbrough Council is preparing a New Local Plan, the clear remedy for this is to base the STDNP on the emerging strategic policies of this plan (as and when they emerge). This will ensure the document is prepared in a robust and comprehensive way and will mean that the STDNP will not be considered out of date upon the adoption of the New Local Plan.

### ***Issues, Vision and Objectives***

Sections 6 and 7 of the STDNP set out the issues which have been raised by the local community to date with the document then seeking to distil this into an overall Vision for the plan and from that, a series of objectives. The Vision is stated as:

***"The Parish will develop appropriately, but also retain its rural village character, along with green spaces both within, and surrounding, the parish. It will maintain its community spirit and historical connections and remain distinct in its character from the urban town of Middlesbrough."***

This sits alongside a number of stated Sustainable Development Principles which include *inter alia*:

- Contributing to a strong and competitive economy by supporting the incremental changes that will sustain and enhance Stainton & Thornton as a place to live, and maintain its economic viability and vitality; and
- Planning positively for housing growth to meet the needs of present and future generations and to ensure that any development in and around Stainton & Thornton is supported by additional infrastructure, where necessary, in order to make it more sustainable.

Our Client is keen to work with the Parish Council to meet these Sustainable Development Principles. In order to ensure the plan is positively prepared, we suggest that within either the Vision or Sustainable Development Principles that reference is given to assisting in the delivery of housing allocations in the STNA that come through the New Local Plan. This again ties the STDNP to an appropriate strategy to ensure that it remains an up to date plan when the New Local Plan is adopted.

#### **4. Comments on Individual Policies**

Having set out our overall views on the STDNP, we comment on the specific policies of the document below.

##### ***Policy ST1 – Green Infrastructure, Green Spaces and Natural Environment***

Our Client notes that this policy is divided into three; Policy ST1a covers Green Infrastructure, Policy ST1b is about Local Green Spaces and Policy ST1c concerns the Natural Environment.

Whilst it is no doubt important to have high quality Green Infrastructure and other green spaces within the area, this needs to be appropriately balanced with the need for growth if the plan's Sustainable Development Principles are to be achieved. It is our Client's view that, consistent with our comments in Section 1 of these representations, matters relating to Green Infrastructure should be covered by strategic policies (as outlined in paragraph 20(d) of the NPPF) and so Policy ST1a should be deleted from the STDNP.

Notwithstanding this, in relation to Policy ST1a specifically, the policy outlines the need to protect 'net loss' of Green Infrastructure. This appears to be a blanket policy which should instead take account of the aforementioned balance. The document itself needs clearer mapping to identify the areas of Green Infrastructure. Our Client therefore reserves the right to comment on this further when detailed mapping is available to establish the potential impact this would have on its land interest.

Whilst some development proposals may result in the loss of Green Infrastructure in quantitative terms, it may be that they offer the opportunity to improve the remaining Green Infrastructure on a site in qualitative terms. The policy should therefore be more specific in this way and rather than requiring the submission of an alternative scheme, should take into account any qualitative improvements that could be made on development sites. This would ensure a much more positive and flexible policy response which better reflects the thrust of the NPPF.

Policy ST1b seeks to designate a series of Local Green Spaces within the STNA. The STDNP as it currently exists does not show detailed mapping of these spaces and so again, our Client reserves the right to comment on these when the boundaries are made clearer. However, in general, the document will need to ensure that the Local Green Spaces do not hinder the emergence of development sites over the plan period and that the two can satisfactorily sit beside each other. In particular, the policy needs justification in accordance with the tests outlined in paragraph 100 of the NPPF and accompanying advice within the PPG.

The policy also requires that any major development must include green space and the provision of children's play facilities within the site. We are keen to work with the Parish Council to discuss this aspiration further, but any such requirements will have to be underpinned by evidence of the need for such facilities and taking into account the policies of the emerging New Local Plan. This is especially the case where such matters are to be secured through planning obligations as these need to pass the statutory tests within Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as

amended) (replicated in paragraph 55 of the NPPF). These are that these requirements are:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

Part C of the Policy (ST1c) is broader in its scope, covering elements such as landscaping, public rights of way and ecology.

In relation to landscaping we would again request that clear mapping of the views referenced in the policy is given. Currently, it is unclear as to the extent of these views and their impact. Our Client therefore reserves the right to comment on this further once this clarification is given. We would nevertheless also consider that matters relating to landscaping, as set out in the policy, are strategic in nature and therefore beyond the remit of the STDNP (as outlined in Section 1 of these representations). As such, these references should be deleted.

Notwithstanding this, the overall approach to landscape protection is inflexible in nature and appears to be of the view that any impact/harm would be unacceptable in landscape terms. Again a more flexible approach is needed and this should be amended to reference that, where it is appropriate, development should be accompanied by landscape and visual appraisals which can assess the landscape impact of a development and suggest (where necessary) appropriate mitigation. Ultimately impact in relation to landscape should be a matter for consideration when examining the wider planning balance which will need to weigh this impact against the benefits of development proposals. This is not currently reflected in the policy and so it requires amending in this way to ensure that it is a positively prepared policy that can encourage sustainable development in line with the NPPF.

In similar way in relation to Public Rights of Way and Ecology, it is considered that these are matters covered by strategic policies and so should not feature in the STDNP and therefore should be deleted as such policies require the scrutiny of a local plan examination where they can be thoroughly tested and be subject to a formal Sustainability Appraisal.

Irrespective of this, greater flexibility in these policies is required to acknowledge that at times, the diversion of Public Rights of Way may be required in association with development proposals (and this may in some instances present a benefit) and that where there is an ecological impact associated with development proposals, this can be addressed through relevant mitigation. The policy should thus be phrased to provide this flexibility to allow each development proposal to address these matters in their own site specific manner rather than tying all sites down to specific measures such as habitat linkages and links to wildlife corridors which may not be applicable/achievable on all sites.

### ***Policy ST2: Heritage Assets***

The notable aspect in relation to heritage assets noted in this policy is in relation to the Stainton and Thornton Conservation Area and the need to preserve its character and setting.

Whilst the approach to protection of the Conservation Area in Policy ST2 is understood, there is a need for the policy to acknowledge that elements such as key views within the Conservation Area and the policy towards densities (within and in the setting of the Conservation Area) need to consider proposals on a site by site basis depending on how they interact with the Conservation Area. The policy should not unduly stifle well designed development coming forward by seeking to impose certain styles/forms of development. For instance the requirement for low densities within the setting of the Conservation Area may not universally apply and clearly needs to be balanced with the requirements in the NPPF to use development land efficiently (paragraphs 122 – 123). Such approaches in terms of views and densities will need to be informed at the application stage by the relevant heritage and design work where the significance of the heritage asset in relation to the development proposals can be appropriately assessed. The policy would thus benefit from making this clearer.

The policy also covers matters relating to archaeology which appears more general in nature and so we consider is a strategic policy (see paragraph 20(d) of the NPPF) which should not be covered by the STDNP. This part of the policy should therefore be removed. Irrespective of this, the policy appears to take a strict view on the matter in relation to development proposals which outlines that such sites should be protected and whenever possible, enhanced to allow further knowledge of such sites. This does not reflect the requirements in the NPPF (paragraph 189) which allows a more flexible approach depending on the significance of any finds. If retained, the policy should be amended to more closely reflect the requirements of the NPPF.

#### ***Policy ST4 – Traffic/Parking/Public Transport and Roads***

Policy ST4 covers matters relating to highways. Our Client agrees that this is an important component of development proposals in terms of their impact on the local highway network and highway safety.

The policy seeks to provide minimum car parking standards and whilst these appear logical in nature, flexibility should be allowed in instances where there are better public transport links or other effective measures to promote sustainable transport. It should also acknowledge the requirement of visitor spaces which can be accommodated in some development proposals. Again, this needs to be put forward in a flexible manner.

Likewise, whilst the approach to minimum garage sizes appears logical (6m x 3m for a single garage and 6m x 5.5m for a double garage), the policy would benefit from a similarly flexible approach than that expressed for parking spaces.

The latter part of the policy relates to the need to secure any required highway improvements through a S106 agreement. It should be highlighted however that there are other mechanisms to achieving highway improvements (eg. through a S278 agreement instead). These also need to be referenced. Notwithstanding this, matters relating to transport infrastructure are clearly the remit of strategic policies (see paragraph 20(b) of the NPPF) as such, measures need to take a broader view of the transport network beyond the STNA and be tested thoroughly at a local plan examination. Therefore, this element of the policy should be deleted and it should be covered by the New Local Plan rather than the STDNP. These elements of the policy can therefore be deleted.

The policy also references that all new residential development should support the provision of the bus service through the parish to ensure its survival. Again, the operation of public transport is a wider strategic matter which does not fall within the remit of neighbourhood planning and should be covered by strategic policies where such measures can be tested on matters such as viability and take into account broader borough-wide transport improvements. Again, this element of the policy can be deleted.

Indeed whilst this may be a laudable aim and our Client would be happy to discuss this aspiration further with the Parish Council, the requirement to support/contribute to the bus service would need to be justified on a site by site basis according to the Regulation 122 of the CIL Regulations 2010 (as amended) (outlined previously in these representations). It is likely to be the case that this may therefore not apply to all sites. It also needs to be highlighted that for this to happen, there would also need to be agreement with the bus operator and so it is not guaranteed that they would agree to any changes to the bus service.

### ***Policy ST5 – Infrastructure and Rights of Way***

As outlined within Section 1 of these representations, matters relating to infrastructure and Green Infrastructure are matters to be covered by strategic policies through the local plan process and the NPPF only allows the ability to address infrastructure through non-strategic policies if they are at a local level. We regard the policies in this instance to be strategic in nature and so should be provided through the New Local Plan. This allows these policies to be thoroughly tested and scrutinised through the local plan examination process and to take into account such matters on a borough-wide basis and be subject to plan-wide testing (including on matters relating to viability). We therefore believe such policies are beyond the remit of the STDNP and so should be deleted.

Notwithstanding this, whilst our Client supports the notion of creating good quality pedestrian and cycle links within developments and agrees with the Parish Council on the importance of these, it may be the case that some of the measures included within the policy are not feasible and deliverable on some sites (owing to constraints or location). As such, there needs to be an acknowledgment of this and such flexibility built into the policy text. This will ensure a more robust policy response.

This is likewise the case when it comes to the Green Links identified within the policy. We note there is currently no accompanying map to go alongside this and so our Client reserves the right to comment on this further once this map is available. However the Green Links described are very explicit, some of which may simply not be feasible to deliver through development proposals alone, for instance they may adversely affect the viability of development or involve land which a developer does not own/has no control of and so cannot deliver these links. As outlined previously, the requirement for such Green Links and other infrastructure will need to be justified in relation to Regulation 122 of the CIL Regulations 2010 (as amended). As such, the policy would benefit from additional flexibility to assess the delivery of such Green Links on a site by site basis and in line with the policies of the emerging New Local Plan.

Our Client does however have concerns with the phase of infrastructure. The policy outlines that future development must incorporate better infrastructure 'before building starts'. Later in the policy it again references infrastructure being in place prior to the occupation of a development. Whilst our Client can see why such an approach would be desirable for the Parish Council, such requests are unrealistic in practice and any phasing of infrastructure should be determined based on an assessment of individual development proposals and when such infrastructure is actually required to be delivered. This also needs to factor in issues of viability and cashflow. Such phasing of infrastructure is usually assessed at the planning application stage, will be site specific and covered by relevant planning conditions and obligations. Likewise, the timing of the delivery of development proposals in relation to the Stainton Way extension link from Low Lane to the Mandale Interchange at the A19 should be considered by Middlesbrough Council and informed by detailed transport assessments. The current approach within Policy ST5 is thus unjustified and unsubstantiated. Given that this is the case, and these are clearly matters that should be covered by strategic policies in the New Local Plan, policies relating to phasing of infrastructure/timing of development proposals therefore should be removed from the STDNP. This will create a more streamlined, realistic and effective policy.

#### ***Policy ST6 – Services/Schools/Shops/Unicorn Centre/Larchfield***

Our Client agrees that the provision of supporting services to go alongside residential development can be important and help underpin sustainability, however the requirement to provide/contribute to such facilities needs to be justified through an Infrastructure Delivery Plan (IDP) which can assess and justify when such services are required. Producing an IDP is clearly a strategic matter which should therefore be covered by strategic policies in the New Local Plan (see paragraph 20 of the NPPF) and include considerations such as plan viability, the wider network of provision and the timing of such provision. Such requirements can then be thoroughly tested at a local plan examination where they can be scrutinised in detail. As such, general references to supporting shops, schools and other facilities should be deleted.

Where more local facilities are mentioned, our Client believes these should be considered carefully. Our Client's land interest at Stainton Vale Farm lies near the Sporting Lodge and the STDNP needs to ensure that this policy remains consistent with the masterplanning exercise for the wider Stainton Vale Farm site and any emerging policy within the New Local Plan.

#### ***Policy ST7 – Design Principles***

Our Client supports good design and sees this as an integral part of the development process. However as outlined previously, these policies should not be overly rigid and specific in nature and instead provide a broad framework against which all proposals can be assessed.

Having studied Policy ST7, we consider some of the requirements to be overly prescriptive in nature and not justified by evidence. This includes the requirement for a maximum of 2 storey developments only. Such a blanket-wide policy across the STNA is not substantiated and would surely need to be assessed on a site by site basis. Likewise, the requirement for lifetime homes and 10% bungalows is not supported by local evidence outlining that

they are required in this area. It is worth noting that the PPG specifically outlines that the following details would need to be examined in such circumstances:

- Current and future population projections;
- The amount who will need adaptations to homes;
- Knowledge of the number of existing homes which can be adapted; and
- Viability of the measures introduced.

The current information available does not give all this information, so currently it is considered this part of Policy ST7 cannot be justified and should therefore be deleted. The criterion to preserve and enhance significant views and vistas will need to be explained further in relation to an assessment of landscape impact, any mitigation proposed and an examination the wider planning balance. It should be noted that the area does not include any specifically protected landscape areas (such as Areas of High Landscape Value).

***Policy ST8 – New Development on Green Field Sites (Rate of New Builds/Density/Landscaping and Green Corridors)***

Our Client has concerns with this policy as currently worded. Whilst the STDNP does not specifically allocate land for residential development, it does make reference to the quantum of development for the area over the plan period to be linked to the adopted 2014 Housing Local Plan. Our issue with this approach is explained in Section 3 of these representations and relates to the age of the plan (and therefore the robustness of its calculation of housing requirements) plus the misalignment in plan period. Our view is that the STDNP should be linked to the emerging New Local Plan which Middlesbrough Council is preparing and be clear in addressing non-strategic matters only (as required by paragraphs 28-30 of the NPPF). This will ensure that the STDNP remains an up to date plan upon adoption of the New Local Plan.

The policy justification also seems to infer a sequential approach to the development of brownfield land. This is inconsistent with the NPPF which seeks to encourage the development of brownfield sites rather than mandating a sequential approach (paragraph 117). This text therefore needs to be amended accordingly.

The policy justification also contains an extract from some of the evidence base of the now withdrawn Middlesbrough Local Plan. This relates to the Landscape and Heritage Assessment (2016). This references the wider site in which our Client has a land interest at Stainton Vale (Parcel 21). However, this is only a small part of Middlesbrough Council's wider evidence base and so cannot be relied upon solely when examining potential new housing sites, rather wider matters including housing requirements and site viability/deliverability need to be considered alongside other development management issues. To consider landscape and heritage in isolation when examining these parcels of land is misleading.

The policy itself provides very specific criteria which we do not deem flexible enough to apply to all sites, some which should be covered by strategic policies (and so should not be in the STDNP) and in some instances the criteria do not appear to be supported by robust evidence. We provide the criteria in the table below and our comments on these:



**Commentary on Policy ST8 Criteria**

<b>Policy Criteria</b>	<b>Commentary</b>
<p>Create distinct new communities designed to instil a sense of place, containing a community centre, shops and other local services on a scale that meets the needs of the new community.</p>	<p>Our Client agrees that creating a sense of place is important, although not all development will require facilities such as community centres and shops as this will depend on existing local provision and the need generated from any new development. This needs to be informed by an IDP and outlined in the area's strategic policies (to be contained in the New Local Plan).</p>
<p>Incorporate a diverse housing mix with a variety of house types, sizes and tenures; including flexible lifetime homes and bungalows; that reflect the current and projected age structure and health limitations of the Tees Valley Population i.e. 30% of build to be smaller homes for pensioners, single occupiers and those with health issues and disabilities.</p>	<p>Matters relating to housing mix are strategic in nature given that they should relate to the wider Housing Market Area (see paragraph 20 of the NPPF). As such, this is a strategic policy which should not be included within the STDNP and instead be a matter for the New Local Plan.</p> <p>Nevertheless, any housing mix provided on development sites will need to also be informed by market knowledge in relation to meeting demand. Whilst the requirement for lifetime homes, bungalows and smaller homes is noted, this needs to be underpinned by robust evidence (again informed by market knowledge and guided by the PPG). Currently we do not believe that this evidence has been provided and so such requirements should be removed from the policy.</p>
<p>Provide an open and attractively landscaped development with the gross density of the development to a maximum of 25 dwellings per hectare.</p>	<p>Providing an attractive landscape setting for development proposals assists in creating a high-quality design but this needs to be balanced with using the site efficiently.</p> <p>In this respect our Client objects to the blanket imposition of a set density across the STNA. This clearly needs to be informed on a site by site basis and take into account the approach in the NPPF which seeks to make efficient use of development land (paragraph 122). The policy should therefore be amended accordingly.</p>
<p>Include a strong landscape buffer where the development adjoins the countryside</p>	<p>Whilst this approach may be appropriate for some development sites and our Client</p>

<p>to reduce the visual impact of the development and create a continuous habitat for wildlife linked into existing natural areas and wildlife habitats.</p>	<p>would be happy discuss this with the Parish Council, it may not be applicable to others and the requirement for such measures will need to be determined on a case by case basis and informed by the site's opportunities and constraints. This criterion therefore should be amended accordingly.</p>
<p>Include landscaped open spaces, roads and footpaths, incorporating children's play areas, throughout the development linked to the peripheral landscape buffer to provide green routes through the housing areas that enhance the quality of the development and provide wildlife habitats.</p>	<p>As outlined earlier in our representations, we would welcome dialogue with the Parish Council in relation to this, although the requirement will need to be informed by a detailed assessment which examines future need and existing provision in the area. This evidence will need to be provided and will need to align with the strategic approach of the emerging New Local Plan.</p> <p>The ability to provide such features will also depend on site opportunities and constraints and so cannot be a 'one size fits all' approach.</p>
<p>Link new footpath and cycle way routes through the development to routes in the countryside, to existing adjacent communities, to schools, community facilities and the town centre.</p>	<p>The ability to achieve links through to the countryside and other facilities will depend on the characteristics of the development site and landownership matters. Whilst such measures can be encouraged, they may not be achievable in all instances. This criterion therefore should be amended accordingly.</p>
<p>Retain existing farmsteads, trees, hedgerows, ditches, watercourses, and heritage assets within the development.</p>	<p>This will again depend on site characteristics and opportunities and constraints. Retention of such features will need to be assessed at the planning application stage where a detailed examination of such issues can be undertaken and mitigation put forward (where applicable). This criterion therefore should be amended accordingly.</p>
<p>Maintain a green strategic gap preventing coalescence between Thornton and Maltby; Rose Cottage Farm and Thornton; Thornton, Stainton and Hemlington Grange this will retain the character of the village identity, preventing further erosion of the village status (see map – <i>map to be developed showing green strategic gap</i>). In order to maintain this gap, no</p>	<p>Issues relating to strategic gaps are clearly matters which should be covered by strategic policies within the emerging New Local Plan rather than the STDNP (which should only cover non-strategic policies). This is evident when examining paragraph 20 of the NPPF as it relates to the pattern of development.</p>

<p>major development should be permitted in Thornton and every effort must be made to prevent the merger of the development of the Hemlington Grange site to the rest of Stainton Village (Cedarwood Glade).</p>	<p>Nevertheless, we note that the 'Green Strategic Map' does not currently exist and so our Client reserves the right to comment on this further once this information is available.</p> <p>As such, this criterion should be deleted.</p>
<p>Address any significant impacts arising from an increase in traffic on the road network between Stainton, Low Lane and the A174. This should include mitigation measures identified by Transport Assessments which may include improvements to the junctions from the villages to the Strait Lane/Low Lane Junction and the Low Lane junction with the A174 as well measures to discourage traffic from the new development using minor roads through the villages in the Plan area and sympathetic traffic calming where necessary. Adequate measures should be discussed as part of the application and not delegated to a condition and in some instances measures should be put in place prior to the occupation of the first dwelling in the relevant proposal.</p>	<p>As this policy relates to transport infrastructure, this is clearly a matter for strategic policies (see paragraph 20 of the NPPF) and should therefore be addressed in the emerging New Local Plan rather than in the STDNP. The criterion should therefore be deleted.</p> <p>Irrespective of this, our Client agrees that a Transport Assessment should, where appropriate, be submitted in support of development proposals with discussions in relation to any necessary highway works to be undertaken with Middlesbrough Council. This again underlines that this is a strategic matter to be discussed with the local authority.</p> <p>The timing of any such works would need to be discussed and agreed through the planning application process and appropriately phased according to need, viability and deliverability.</p>
<p>Avoid areas at risk of flooding and incorporate sustainable drainage measures to manage rain water run-off from the development.</p>	<p>Whilst our Client agrees that sustainable drainage measures should be included as part of development proposals, this should only be where this is feasible to do so. Flood risk matters should be considered through site specific Flood Risk Assessments submitted with planning applications.</p> <p>This therefore requires amending to reflect this.</p>
<p>Assist in meeting Middlesbrough Council's housing need, where necessary by continuing to support new developments on the edge of Middlesbrough which take into consideration their rural fringe locations and which do not compromise the green gaps (coalescence) subject to design, layout, environmental and traffic impact considerations.</p>	<p>Our Client agrees with this criterion as it appears to acknowledge such issues should be addressed on a site by site basis and assessed through the New Local Plan (as this is a strategic matter). The elements relating to green gaps (coalescence) and environmental and traffic impact considerations should be removed as they too are areas covered by strategic policies</p>

	(as defined in paragraph 20 of the NPPF).
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As a result of this, we believe Policy ST8 needs substantial modification if it is to facilitate future growth within the area. Parts of the policy are clearly beyond the remit of the STDNP as they are matters that should be covered by strategic policies (whilst the STDNP is to cover non-strategic policies). These elements need removing whilst the policy also needs to acknowledge the role that greenfield sites will play in assisting the future success of the parish and ensure a flexible enough approach is applied which acknowledges site specific matters and issues We would be happy to discuss this further with the Parish Council to assist in refining this policy.

### ***Policy ST9 – Planning Obligations***

Our Client acknowledges the need to ensure that the relevant infrastructure is in place to support development proposals and this may require planning obligations. Paragraph 20 of the NPPF outlines that matters relating to the provision of infrastructure (which are often provided by planning obligations) should be covered by strategic policies with only local infrastructure to be included within neighbourhood plans (as non strategic policies). This is so they can take into account wider issues of viability, Borough-wide provision and how infrastructure in the STNA sits within a wider area. It also allows greater scrutiny of planning obligations to be undertaken through a local plan examination. As we consider the approach in this policy to be more strategic in nature, these matters should be covered by the New Local Plan and should be removed from the STDNP as they are beyond its remit.

The fact that such obligations need to be agreed with Middlesbrough Council (rather than the Parish Council) as one of the signatories of any planning obligation further underlines this point. These will need to take a broad view on any requirements needed to support development proposals and ensure they pass the statutory tests found in Regulation 122 of the CIL Regulations 2010 (as amended).

Appendix 9 of the STDNP contains a list of obligations/contributions formulated by the Parish Council. As outlined earlier in these representations, the requirement for infrastructure needs to be informed by a detailed assessment in an IDP which can examine these requirements in more detail and explore deliverability and viability considerations alongside this. This clearly needs to be undertaken at a strategic level to inform strategic policies within the emerging New Local Plan rather than be contained in the STDNP. Whilst the PPG allows for the provision of local level infrastructure to be outlined in non-strategic policies (and thus neighbourhood plans) (Reference ID: 41-005-20190509), it is clear that these need to be informed by strategic level requirements. As these will be coming through the emerging New Local Plan, then Appendix 9 cannot comply with the PPG. It is also unclear on the justification of the list of obligations/contributions whether these pass the aforementioned Regulation 122 tests and whether the viability implications of these are understood. As this is the case, reference to Appendix 9 should be removed from the policy.

In relation to viability specifically, these matters should be discussed between the developer and Middlesbrough Council.

### ***Policy ST10 – Renewable Energy and Energy Efficiency***

The second part of this policy covers sustainable features that should be considered as part of new major housing developments in the parish. This includes items such as solar panels, electric vehicle charging points and water butts.

Paragraph 20(d) of the NPPF is clear that matters relating measures to address climate change mitigation and adaptation should be strategic policies to be contained in a local plan and not within a neighbourhood plan. This is therefore beyond the remit of the STDNP and should be removed.

Irrespective of this, measures involving matters of energy efficiency are covered by building regulations and so do not need to form part of planning policy. In other instances, the provision of such features adds substantially to the cost of each new home. It is therefore preferable that features such as solar panels and water butts are not included and instead left to future occupiers to decide whether they wish to install these features. Matters such as permeable driveways/paving need to be considered on a site by site basis taking into account site viability as well as feasibility in relation to a site's wider drainage strategy.

## **5. Summary and Conclusions**

These representations to the Stainton and Thornton Draft Neighbourhood Plan (STDNP) have been prepared on behalf of Miller Homes. Miller Homes is a national housebuilder with a land interest in the area (see **Appendix 1** of this letter). They have an excellent track record of delivering sustainable housing locally and are therefore keen to be involved in the ongoing evolution of the STDNP to ensure it is a robust document which meets the 'Basic Conditions' and which allows the area to benefit from future growth. This future growth is necessary to ensure the area remains a thriving and viable place over the next 15 – 20 years.

In this instance, we believe that the STDNP's Vision and Sustainable Development Principles should more explicitly support the emerging housing allocations coming through the future New Local Plan. This link to Middlesbrough Council's emerging New Local Plan will ensure the STDNP's strategy is up to date. The scope of a neighbourhood plan is to provide non-strategic policies, and this is made clear within the NPPF, with strategic policies to be provided in local plans. In some instances, we consider policies within the STDNP are more strategic in nature and should therefore be removed (as they are beyond the remit of the plan).

In other instances, the policies within the plan also need to be more flexible to ensure they can apply to all sites, are adaptable to changing conditions over the plan period and also are able to be positively prepared to encourage the development that is required. Currently we have concerns that the policies do not achieve this and so we object to the STDNP on this basis. These policies require either amending or deleting to ensure alignment with national planning policy and guidance.

We trust our comments will be noted as the STDNP progresses. We would be happy to discuss any of the issues raised further with you so that the document can progress on a

robust footing. If you have any queries in relation to any of our comments, please do not hesitate to contact me.

Yours faithfully

A solid black rectangular box redacting the signature of Chris Martin.

Chris Martin  
**Associate Planner**

A solid black rectangular box redacting contact information for Chris Martin.

## **APPENDIX 1 – OUTLINE OF MILLER HOMES' LAND INTEREST AT STAINTON VALE FARM**

## **Appendix Two**



**Land at Stainton Vale Farm, Low Lane, Middlesbrough**

