

WHITBURN NEIGHBOURHOOD PLAN

Submission Draft Version

**A report to South Tyneside Council
into the examination of the
Whitburn Neighbourhood Plan
by Independent Examiner, Rosemary Kidd**

Rosemary Kidd, Dip TP, MRTPI

NPIERS Independent Examiner

23 February 2022

Contents:

	Page
1 Summary	3
2 Introduction	4
3 The Neighbourhood Plan - as a Whole	13
The Neighbourhood Plan - Policies	15
4 Referendum	43
5 Background Documents	44
6 Summary of Recommendation	46

1.0 Summary

- 1.1 The Whitburn Neighbourhood Development Plan has been prepared to set out the wishes of the community of Whitburn. The boundary of the neighbourhood plan area encompasses the village of Whitburn and the coast and countryside around it. The area is based on the Whitburn & Marsden ward but excludes the Marsden built up area and the Sunderland AFC Academy. The boundary conforms to the three Census Lower Super Output Areas for Whitburn.
- 1.2 I have made a number of recommendations in this report in order to make the wording of the policies and their application clearer, including improvements to the clarity of the mapping of sites referred to in policies, to ensure that the Plan meets the Basic Conditions. Section 6 of the report sets out a schedule of the recommended modifications.
- 1.3 The main recommendations concern:
 - The deletion of Policy WNP5;
 - Clarification of the wording of policies and the supporting text; and
 - the improvement of the mapping of policies.
- 1.4 Subject to the recommended modifications being made to the Neighbourhood Plan, I am able to confirm that I am satisfied that the Whitburn Neighbourhood Plan satisfies the Basic Conditions and that the Plan should proceed to referendum.

2.0 Introduction

Background Context

- 2.1 This report sets out the findings of the examination into the Whitburn Neighbourhood Plan.
- 2.2 The community of Whitburn lies within the district of South Tyneside. The boundary of the neighbourhood plan area encompasses the village of Whitburn and the coast and countryside around it. The area is based on the Whitburn & Marsden ward but excludes the Marsden built up area and the Sunderland AFC Academy. The boundary conforms to the three Census Lower Super Output Areas for Whitburn. The area has an estimated population of 5235 in 2011.

Appointment of the Independent Examiner

- 2.3 I was appointed as an independent examiner to conduct the examination on the Whitburn Neighbourhood Plan (WNP) by South Tyneside Council (STC) with the consent of Whitburn Neighbourhood Forum in February 2021. I do not have any interest in any land that may be affected by the WNP nor do I have any professional commissions in the area currently and I possess appropriate qualifications and experience. I am a Member of the Royal Town Planning Institute with over 30 years' experience in local authorities preparing Local Plans and associated policies.

Role of the Independent Examiner

- 2.4 As an independent Examiner, I am required to determine, under paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether the legislative requirements are met:
- The Neighbourhood Development Plan has been prepared and submitted for examination by a qualifying body as defined in Section 61F of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004;
 - The Neighbourhood Development Plan has been prepared for an area that has been designated under Section 61G of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004;
 - The Neighbourhood Development Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004, that is the Plan must specify the period to which it has effect, must not include provisions relating to 'excluded development', and must not relate to more than one Neighbourhood Area; and

- The policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of the Planning and Compulsory Purchase Act 2004 Section 38A.

2.5 An Independent Examiner must consider whether a neighbourhood plan meets the “Basic Conditions”. The Basic Conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The Basic Conditions are:

1. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
2. the making of the neighbourhood plan contributes to the achievement of sustainable development;
3. 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 (or any part of that area);
4. the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations, as incorporated into UK law; and
5. 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 following prescribed condition relates to neighbourhood plans:
 - Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended by the Conservation of Habitats and Species and Planning (various Amendments) Regulations 2018) sets out a further Basic Condition in addition to those set out in the primary legislation: that the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

2.6 The role of an Independent Examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans. It is not within my role to comment on how the plan could be improved but rather to focus on whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention rights, and the other statutory requirements.

2.7 It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings. I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements.

The Examination Process

- 2.8 The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or so that a person has a fair chance to put a case.
- 2.9 I have sought clarification on a number of factual matters from the Qualifying Body and/or the local planning authority in writing. I am satisfied that the responses received have enabled me to come to a conclusion on these matters without the need for a hearing.
- 2.10 I had before me background evidence to the plan which has assisted me in understanding the background to the matters raised in the Neighbourhood Plan. I have considered the documents set out in Section 5 of this report in addition to the Submission draft of the WNP dated September 2021.
- 2.11 I have considered the Basic Conditions Statement and the Consultation Statement as well as the Screening Opinions for the Strategic Environmental Assessment and Habitats Regulation Assessment. In my assessment of each policy, I have commented on how the policy has had regard to national policies and advice and whether the policy is in general conformity with relevant strategic policies, as appropriate.

Legislative Requirements

- 2.12 The neighbourhood plan making process has been led by Whitburn Neighbourhood Forum which is a “qualifying body” under the Neighbourhood Planning legislation which entitles them to lead the plan making process. Paragraph 3.2 of the Basic Conditions Statement confirms that the Whitburn Neighbourhood Forum and the Neighbourhood Plan area were designated by South Tyneside Council on 25th January 2017. The report to South Tyneside Cabinet for the formal designation is published on South Tyneside Council’s website.
- 2.13 Paragraph 3.7 of the Basic Conditions Statement confirms that there are no other neighbourhood plans relating to the plan area.
- 2.14 A neighbourhood plan must specify the period during which it is to have effect. The Front page of the Plan and the Basic Conditions Statement state that this is from 2021 – 2036 to align with the Plan period in the emerging South Tyneside Local Plan.
- 2.15 Paragraph 3.6 of the Basic Conditions statement confirms that the Plan does not include provision for any excluded development: county matters (mineral extraction and waste development), nationally significant infrastructure or any matters set out in Section 61K of the Town and Country Planning Act 1990.

- 2.16 The Neighbourhood Development Plan should only contain policies relating to the development and use of land. Other proposals that are not related to the development and use of land are contained in Part 7 of the Plan, entitled 'Community Projects'. I am satisfied that this requirement has been met.
- 2.17 I am satisfied therefore that the WNP satisfies all the legal requirements set out in paragraph 2.4 above.

The Basic Conditions

Basic Condition 1 – Has regard to National Policy

- 2.18 The first Basic Condition is for the neighbourhood plan "*to have regard to national policies and advice contained in guidance issued by the Secretary of State*". The requirement to determine whether it is appropriate that the plan is made includes the words "*having regard to*". This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans which requires plans to be "*consistent with national policy*".
- 2.19 The Planning Practice Guidance assists in understanding "appropriate". In answer to the question "What does having regard to national policy mean?" the Guidance states a neighbourhood plan "*must not constrain the delivery of important national policy objectives.*"
- 2.20 In considering the policies contained in the Plan, I have been mindful of the guidance in the Planning Practice Guide (PPG) that:
- "Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like."*
- 2.21 The NPPF of July 2021 is referred to in this examination in accordance with paragraph 220 of Appendix 1, as the plan was submitted to the Council after 24 January 2019.
- 2.22 The Planning Practice Guidance on Neighbourhood Plans states that neighbourhood plans should "*support the strategic policies set out in the Local Plan or spatial development strategy and should shape and direct development that is outside of those strategic policies*" and further states that "*A neighbourhood plan should, however, contain policies for the development and use of land. This is because, if successful at examination and referendum, the neighbourhood plan becomes part of the statutory development plan.*"

- 2.23 Table 1 of the Basic Conditions Statement includes comments on how the policies of the WNP have had regard to key sections of the NPPF and NPPG. I consider the extent to which the plan meets this Basic Condition No 1 in Section 3 below.

Basic Condition 2 - Contributes to sustainable development

- 2.24 A qualifying body must demonstrate how a neighbourhood plan contributes to the achievement of sustainable development. The NPPF as a whole constitutes the Government's view of what sustainable development means in practice for planning. The NPPF explains that there are three dimensions to sustainable development: economic, social and environmental.
- 2.25 Table 1 of the Basic Conditions Statement sets out how the policies of the WNP support the delivery of sustainable development.
- 2.26 I am satisfied that the Plan contributes to the delivery of sustainable development and therefore meets this Basic Condition.

Basic Condition 3 – is in general conformity with strategic policies in the development plan

- 2.27 The third Basic Condition is for the neighbourhood plan to be in general conformity with the strategic policies contained in the Development Plan for the area. The Development Plan relevant to the area comprises the South Tyneside Core Strategy (2007); South Tyneside Development Policies Document (2011); and South Tyneside Site Specific Allocations Document (2012).
- 2.28 Table 1 of the Basic Conditions Statement comments on how each of the WNP policies is in general conformity with the relevant strategic development plan policies. South Tyneside Council has provided the qualifying body with a list of policies in the current Development Plan that they consider to be 'strategic' for the purposes of meeting this basic condition and these are listed in Appendix A of the Basic Conditions Statement. These consist of all policies in the South Tyneside Core Strategy (2007) and Policy DM1 in the Development Management Policies Document (Dec 2011). Other strategic policies are identified, but these are not in the Neighbourhood Area.
- 2.29 The new South Tyneside Local Plan is currently under preparation; consultation on the Pre Publication Draft (Regulation 18) Plan was carried out between August and October 2019.
- 2.30 Following the consultation, a report on the South Tyneside Local Plan: Spatial Options Review was considered by the Cabinet meeting of 17 March 2021. In view of the representations received, the Council agreed to undertake a review of the spatial options and progress to a new draft Regulation 18 Local Plan to be informed by that review.

2.31 STC has confirmed that the status of the Regulation 18 Pre-Publication Draft Local Plan that was approved by Cabinet on 7 August 2019 is that it carries very limited weight as, subject to Cabinet approval, it will be superseded by a new Regulation 18 draft Local Plan.

2.32 I consider in further detail in Section 3 below the matter of general conformity of the Neighbourhood Plan policies with the strategic policies.

Basic Condition 4 – Compatible with EU obligations and human rights requirements

2.33 A neighbourhood plan must be compatible with European Union obligations as incorporated into UK law, in order to be legally compliant. Key directives relate to the Strategic Environmental Assessment Directive and the Habitats and Wild Birds Directives. A neighbourhood plan should also take account of the requirements to consider human rights.

2.34 Regulation 15 of the Neighbourhood Planning Regulations as amended in 2015 requires either that a Strategic Environmental Assessment is submitted with a Neighbourhood Plan proposal or a determination from the competent authority (STC) that the plan is not likely to have “significant effects.”

2.35 In the context of neighbourhood planning, a Habitats Regulation Assessment (HRA) is required where a neighbourhood plan is deemed likely to result in significant negative effects occurring on a Special Area of Conservation or Special Protection Area, or other ecologically important European site (Ramsar) as a result of the plan’s implementation.

2.36 SEA screening opinion was undertaken by the Whitburn Neighbourhood Forum in July 2021. Paragraph 4.3 of the SEA Screening Report concluded:

“4.3 In summary, the Plan itself will not have any negative or significant effects on the environment. The Plan will not instigate any projects or programmes. If any proposals are made by third parties, these proposals will have to comply with national policies and plans, local policies and plans, and at the lowest tier, the neighbourhood plan. The neighbourhood plan when ‘made’ will comply with higher tiers, and will therefore not change the effects of any proposed developments on the environment had it not been ‘made’, because these policies are already in place at higher levels. It simply applies these higher-tier strategic policies to a neighbourhood level and aims to ensure that development is sustainable at the neighbourhood level also.”

2.39 Responses from the Environment Agency, Natural England and Historic England dated June and July 2021 are included in Appendix A of the SEA Screening Report. They agreed with the conclusions of the screening assessment.

2.37 The HRA Screening Report was undertaken by STC in July 2021. Table 5.1 sets out the HRA screening assessment for the Whitburn Neighbourhood Plan. The assessment identifies potential effects which could be generated

from the policy and the likelihood as to how significant those effects could be on the European Sites identified in the previous section. No Likely Significant Effects are identified.

2.38 Paragraph 5.17 of the HRA Screening Report considers in-combination effects with the South Tyneside Local Development Framework documents and the Emerging South Tyneside Draft Local Plan (2019). It is considered that as the draft Neighbourhood Plan does not:

- i. allocate sites for development;
- ii. does not amend or introduce development limits set out in the South Tyneside LDF or emerging Local Plan;
- iii. is in general conformity with the statutory development framework;

it is concluded that no significant in-combination effects are likely to occur from the implementation of the Whitburn Neighbourhood Plan.

2.39 Paragraph 6.1 of the HRA Screening Report confirms that the Local Planning Authority has concluded that the Whitburn Neighbourhood Plan is unlikely to result in significant effects on the Durham Coast SAC and Northumbria Coast SPA and Ramsar site.

2.40 This HRA Screening Report has been subject to consultation with Natural England. Natural England has agreed with the findings of the report that the Neighbourhood Plan is unlikely to result in significant effects. A copy of Natural England's response has been included in Appendix II of the HRA Screening Report.

2.41 I am satisfied that the SEA and HRA assessments have been carried out in accordance with the legal requirements.

2.42 The Basic Conditions Statement considers the impact of the Plan on Human Rights and concludes that: *"4.28 The Whitburn Neighbourhood Plan is fully compliant with European Convention on Human Rights. There is no discrimination stated or implied, or threat to the fundamental rights and freedoms guaranteed under the Convention."*

2.43 From my review of the Consultation Statement, I have concluded that the consultation on the WNP has had appropriate regard to Human Rights.

2.44 I am not aware of any other European Directives which apply to this particular Neighbourhood Plan and no representations at pre or post-submission stage have drawn any others to my attention. Taking all of the above into account, I am satisfied that the WNP is compatible with EU obligations and therefore with Basic Conditions Nos 4 and 5.

Consultation on the Neighbourhood Plan

2.45 I am required under The Localism Act 2011 to check the consultation process that has led to the production of the Plan. The requirements are set out in Regulation 14 in The Neighbourhood Planning (General) Regulations 2012.

2.46 The following key stages of consultation were:

- 25 July – 1 September 2017 – Key Issues Consultation – questionnaire sent to every household. 179 forms were returned
- Sept 2017 – May 2018 – Housing Needs Assessment
- April – June 2017, and February 2019 – meetings with heritage groups and landowners of potential development sites
- 11 and 17 November 2017 – Key Issues Workshops – residents, businesses and stakeholders, workshops around the 6 key themes that had emerged from the Key Issues consultation.
- 14 November 2017 and 13 November 2018 – consultation with pupils and staff at Marsden Primary School
- February – March 2018 – Consultation on Vision and Objectives
- February – March 2018 – meetings with councillors and officers of STC, Sunderland Council and CRPE
- 28 August 2018 – Family Fun Day – consultation with residents on green spaces
- 28 August 2018 – Consultation with Church Commissioners as landowners
- December 2018 and April 2019 – meetings with EA, National Trust and Northumbrian Water – on infrastructure provision and issues on sewage treatment
- January 2020 – meeting with Community Area Forum on Climate Change and Coastal Erosion
- June 2020 – consultation with residents on valued views using social media. Responses from 32 residents.
- June - July 2020 and January 2021 meetings with local environmental groups, STC and EA on condition of beaches and waste water discharges
- 14 December 2020 – 7 February 2021 consultation with residents and stakeholders on Regulation 14 draft WNP. Due to Covid restrictions, no in person meetings were permissible. Paragraphs 4.20- 4.25 of the Consultation Statement set out the measures that were undertaken to publicise the consultation. The consultation was carried out on line and through social media supported by articles in a local newspaper and leaflets to all houses. 43 responses were received from residents and 12 from stakeholders

2.47 Prior to Covid restrictions, the Neighbourhood Forum meetings were open to the public and held at different locations around the area.

- 2.48 Committee members visited community clubs and events to explain the purpose of the forum, the importance of the neighbourhood plan and how people could get involved. The aim was to engage the community by targeting a specific message appropriate to the audience. The Forum occupied a stand at a summer fair in the park, and asked people about their favourite green spaces.
- 2.49 A variety of communication methods was applied, including social media (Facebook, Twitter and Instagram), village newsletters, local newspaper articles, leaflets, Forum newsletters and posters. Regular emails were sent to Forum members who had agreed to communication. Leaflets and newsletters were delivered to all the houses in the Whitburn Area to ensure people without digital skills were regularly informed.
- 2.50 Consultation events were designed using a mixture of methods, including workshops, surveys, map marking and drawing exercises for children.
- 2.51 The Consultation Statement includes a summary of the responses received to the Regulation 14 consultation plan and the responses agreed by the Forum. It also includes copies of forms and publicity material used. The Neighbourhood Forum are to be congratulated on how they have engaged with their community, particularly during the time of the Covid restrictions, in order to secure a good response in the early stages of making the plan.
- 2.52 Consultation on the Regulation 16 Submission draft Plan was carried out by STC between 8 October and 19 November 2021. In total, representations from 19 individuals and organisations were received, some commenting on a several policies. I received two emails from one representor during the examination which I have treated as late representations. It is a general rule that late representations are not considered other than in exceptional circumstances. I am satisfied that there are no exceptional circumstances in this case.
- 2.53 I am satisfied that from the evidence presented to me in the Consultation Statement, adequate consultation has been carried out during the preparation of the WNP.
- 2.54 I am satisfied that the pre-submission consultation and publicity has met the requirements of Regulations 14, 15 and 16 in the Neighbourhood Planning (General) Regulations 2012.

3.0 Neighbourhood Plan – As a whole

- 3.1 The Neighbourhood Plan is considered against the Basic Conditions in this section of the Report following the structure and headings in the Plan. Given the findings in Section 2 above that the plan as a whole is compliant with Basic Conditions No 4 (EU obligations) and other prescribed conditions, this section largely focuses on Basic Conditions No 1 (Having regard to National Policy), No 2 (Contributing to the achievement of Sustainable Development) and No 3 (General conformity with strategic policies of the Development Plan).
- 3.2 Where modifications are recommended, they are presented and clearly marked as such and highlighted in bold print, with any proposed new wording in italics.
- 3.3 Basic Condition 1 requires that the examiner considers whether the plan as a whole has had regard to national policies and advice contained in guidance issued by the Secretary of State. Before considering the policies individually, I have considered whether the plan as a whole has had regard to national planning policies and supports the delivery of sustainable development.
- 3.4 The PPG states that *“a policy should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area”*. I will consider this requirement as I examine each policy.
- 3.5 The WNP contains policies on housing, the built environment, the natural environment, the village centre, and infrastructure. There is a section on Community Projects and Appendices on heritage assets, Article 4 Directions, evidence documents and a glossary of terms.
- 3.6 The introductory sections of the Plan set out the planning policy context for preparing the plan and describe a spatial portrait of the area. This notes that STC is in the course of preparing its Local Plan for the period to 2036. The emerging plan will allocate sites for housing development which may involve the review of green belt boundaries. Consultation was carried out on a draft Local Plan in 2019. STC has confirmed that in response to the consultations received, a new Regulation 18 draft Local Plan is to be prepared which will review the spatial options for the distribution of development. Paragraphs 2.4 – 2.5 will require updating to reflect the latest position.
- 3.7 Paragraph 5.6 and 5.8 refer to figure of 397 dwellings which has been proposed in the withdrawn Local Plan. The WNP has not included an indicative housing requirement for the plan area and is not proposing to allocate any sites for housing development as the settlement is surrounded by Green Belt or areas protected by nature conservation designations.

- 3.8 In considering the policies of the plan I have been mindful of the guidance in the NPPG that neighbourhood plans should not *“be used to constrain the delivery of a strategic site allocated for development in the local plan or spatial development strategy”* in considering proposals to safeguard views and open spaces on the edge of the built up area.
- 3.9 The Housing Needs Assessment Report of February 2018 summarises the strategic planning context of the adopted Core Strategy and the emerging Local Plan. The Core Strategy sets the housing requirement to 2021. This will be reviewed and rolled forward as part of the new South Tyneside Local Plan.
- 3.10 The policies in the WNP are clearly distinguishable from the supporting text by surrounding boxes.
- 3.11 Several policies in the plan refer to “major” housing development. Paragraph 5.16 defines this as 10 homes or more. It is recommended that the definition from the Development Management Procedure Order which also includes a minimum site area should be included in the glossary.
- 3.12 A number of policies refer to “all” or “any” development. It is considered that these words are unnecessary and unhelpful and I have recommended that they be deleted under the relevant policies.
- 3.13 A number of policies are set out as requirements or use the word “must”. NPPF paragraph 2 states that applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. There are many factors that have to be taken into account in considering development proposals and policies should be worded to include a degree for flexibility unless it is an absolute requirement as set out in national planning policy. I have made recommended modifications to achieve a degree of flexibility under relevant policies.
- 3.14 The Plan contains a map of the plan area and a Policies Map with an Inset Map of the village centre. The boundaries of the sites are indicated on the map and the policies in the key are distinguishable. However, there are a number of overlapping site specific policies and it is difficult to distinguish them on a printed plan. It may be helpful to users if the various layers of the Policies Map can be viewed separately. Alternatively, maps could be included in the text to identify particular sites.
- 3.15 The scale of the Policies Map is such that the boundaries of the small sites and buildings cannot be clearly seen. They should be shown on plans to enable decision makers to refer to the sites accurately. I comment further on this subject in my consideration of relevant policies.
- 3.16 I will also comment further on the way that Whitburn village centre and the Wildlife Corridors are defined on the Policies Map under the relevant policies.

Recommendation 1: Improve the legibility of the Policies Map and / or include Inset Maps or diagrams relevant to each policy. The boundaries of all sites and areas referred to in the policies should be shown on maps at a scale that applicants and decision makers can determine whether their site is covered by that policy.

Include the definition of Major Housing Development in the Glossary.

“The provision of 10 or more dwellinghouses or the development is to be carried out on a site having an area of 0.5 hectares or more where the number of dwellings is unknown

Update paragraphs 2.4-2.5 on the emerging Local Plan.

The Neighbourhood Plan

Vision and Objectives

- 3.17 The Plan includes a clear vision statement and 14 objectives grouped under the topics of the Plan.
- 3.18 The third objective of the Natural Environment and Green Infrastructure section states “protect our Green Belt from inappropriate development”. The Green Belt is protected under national planning policy. I have recommended a modification under Policy WNP7 that it should not be included in the list of Green Infrastructure. Consequently, I am recommending that this objective should be deleted as there are no policies relating to it in the plan.

Recommendation 2: Delete the following objective:

“Protect our Green Belt from inappropriate development.”

Policies

- 3.19 The introduction to the Housing section explains the community’s opposition to the release of land from the Green Belt for housing delivery around Whitburn as suggested in the now withdrawn draft Local Plan. Paragraph 5.8 of the Plan refers to a indicative requirement of 397 dwellings. This figure was set out in the now withdraw Regulation 18 draft Local Plan. As this figure is no longer relevant, a recommendation is made that paragraph 5.8 should be deleted.

Recommendation 3: Delete paragraph 5.8.

Policy WNP1 Housing

- 3.20 The WNP has not sought an indicative housing figure from STC. The WNP is not proposing to allocate any sites for housing development as the settlement is surrounded by Green Belt or areas protected by nature conservation designations. The plan makers determined not to allocate any sites as the release of Green Belt sites is a strategic matter to be considered through the emerging Local Plan. The NPPG confirms that plan makers are not required to allocate land for housing development. This strategic matter will be for further consideration through the Local Plan process.
- 3.21 The NPPG also advises that *“A neighbourhood plan should support the delivery of strategic policies set out in the local plan or spatial development strategy and should shape and direct development that is outside of those strategic policies. Within this broad context, the specific planning topics that a neighbourhood plan covers is for the local community to determine.”*
- 3.22 In considering the policies of the plan I have been mindful of the guidance in the NPPG that neighbourhood plans should not *“be used to constrain the delivery of a strategic site allocated for development in the local plan or spatial development strategy.”*
- 3.23 There are currently no allocated housing sites in the plan area in the adopted Local Plan. The Strategic Land Review 2018 prepared for the emerging Local Plan shows one site that was considered suitable for development and seven as potentially suitable for housing development.
- 3.24 As noted above, the adopted strategic policies of the Core Strategy date back to 2007. A pre-publication draft of the emerging Local Plan was consulted on in August 2019 but has been withdrawn and the spatial options for development are to be reviewed. The WNP has therefore been considered against the national planning policies and adopted strategic policies as appropriate and the evidence prepared for the emerging Local Plan.
- 3.25 Policy WNP1 seeks to build on the evidence of the Whitburn Housing Needs Assessment (2018); the first two paragraphs set out a policy on housing mix and affordability. The current Affordable Housing SPD dates from 2007.
- 3.26 The Whitburn Housing Needs Assessment was completed in 2018. This considered a number of data sources and drew up four projections of housing need between 2016 and 2036 ranging from 0 to 191 dwellings. The highest figure was based on projecting forward the net dwelling completion rates from 2001-2017.
- 3.27 As housing need changes over time and is generally reviewed every five years, it is recommended that the policy includes reference to the housing mix and affordable housing provision being determined in accordance with *“the evidence from the latest housing needs assessment for the plan area.”*

- 3.28 A representation has been made that proposes that the policy should be revised to include reference to “*providing a mix of housing to meet the housing needs in South Tyneside and the neighbourhood plan area*”. It is considered that this would be unreasonable unless there was a requirement in the Local Plan for the plan area to accommodate some of the housing needs from the rest of the South Tyneside. There is no such requirement at this time.
- 3.29 NPPF paragraph 65 states that planning policies should expect that on major developments, at least 10% of the total number of homes should be available as affordable home ownership unless certain exceptions are met. Policy SC4 of the Core Strategy (2007) sets an affordable housing requirement of 25% in the Plan area. SPD4 on Affordable Housing (2007) provides guidance on the delivery of affordable housing.
- 3.30 Evidence in the SHMA dated 2015 was used to justify the reduced figure of 18% included in the emerging Local Plan Policy. However, it is noted that this figure has not yet been adopted by STC.
- 3.31 The second paragraph of Policy WNP1 sets the affordable housing figure of 20% as a requirement. Paragraph 5.13 of the justification to Policy WNP1 argues that there is a higher level of affordable housing need in the Whitburn plan area and a higher contribution is therefore to be sought than that proposed in the emerging Local Plan for the rest of South Tyneside.
- 3.32 The WNP does not include a viability study to demonstrate that this level of provision is viable and deliverable in the plan area. By way of justification, the Qualifying Body has stated that this figure is lower than that in the adopted Core Strategy and has referred me to a development in the plan area approved in 2014 where 25% affordable housing was delivered in accordance with the Core Strategy policy.
- 3.33 A representation raised concerns that the affordable housing target should be consistent with that in the emerging Local Plan policy of 18% which has been agreed following viability testing. A further representation has been made that the level of affordable housing should be set in the Local Plan and not the Neighbourhood Plan.
- 3.34 It is considered appropriate for a neighbourhood plan to set out a policy on affordable housing to help shape the type and mix of housing to be delivered in the plan area.
- 3.35 The policy does not give any details of the type of affordable homes that are to be sought. This should be based on evidence of need in accordance with the latest evidence and the Council’s approved supplementary guidance. Consideration should also be given to the viability of the proposal. I am also proposing to recommend that a degree of flexibility should be incorporated into the policy. I have recommended a modification to this effect to improve the clarity of the policy for decision makers.

- 3.36 As the plan does not allocate any sites for housing, the delivery of this aspect of the policy on housing mix and tenure will rely on the development of brownfield sites pending the allocation of any sites (if agreed) in the emerging Local Plan.
- 3.37 The third paragraph of the policy gives support to housing proposals on brownfield sites that comply with other policies of the development plan. No evidence has been provided in the plan of the number of houses this is likely to deliver and there is therefore uncertainty about whether Policy WNP1 will help deliver the affordable housing required in the plan area. The QB has confirmed that they consider that there are only two small brownfield sites; one of which has recently received planning permission for 5 dwellings. These are therefore unlikely to deliver affordable housing to meet the identified need. Further consideration will need to be given to the matter through the allocation of a site or sites in the emerging Local Plan or a future review of the WNP.
- 3.38 The fourth paragraph of the policy states that “All new homes must be built to Lifetime Homes Standards.” The Written Ministerial Statement of March 2015 stated that “... *qualifying bodies preparing neighbourhood plans should not set in their... neighbourhood plans... any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. This includes any policy requiring any level of the Code for Sustainable Homes...*” Furthermore “*The optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need, and where their impact on viability has been considered, in accordance with the National Planning Policy Framework and Planning Guidance. Neighbourhood plans should not be used to apply the new national technical standards.*”
- 3.39 It is considered that the requirement to develop new homes to Lifetime Homes Standards is not in general conformity with national planning policy. I am therefore recommending that the fourth paragraph of the policy and paragraph 5.15 of the justification should be deleted.
- 3.40 The final paragraph of the policy requires all major housing developments to ensure that adequate sewerage and drainage infrastructure is provided in accordance with Policy WNP13. Paragraph 5.16 explains that pollution of the coastline is considered to be a significant issue in the plan area. A modification is recommended to paragraph 5.16 to add in the words “or can be made available” to clarify the application of the policy.
- 3.41 A representation has been made that the policy has not taken account of the emerging Local Plan which will require Green Belt releases in Whitburn to meet housing needs. It proposes that the policy should be revised to refer to housing allocations in an adopted South Tyneside Local Plan.
- 3.42 A further representation seeks the addition of a new paragraph in the justification as follows: “*There may be limited opportunities for housing*

development in the Green Belt and any such development will be considered against national policy on Green Belts.” NPPF paragraph 149 sets out the exceptional circumstances where the construction of new buildings in the Green Belt may be acceptable. I consider that it is not necessary to include a reference to this under this policy.

- 3.43 As the spatial options in the emerging Local Plan are subject to review, references to any proposals in it cannot be included in the WNP. As and when the Local Plan is reviewed STC will have to take account of the policies of the WNP in considering any site allocations. Section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that any conflict between neighbourhood and local plans must be resolved in favour of the policy which is contained in the last document to become part of the development plan.

Recommendation 4: Revise Policy WNP1 as follows:

Revise the first paragraph to read: “.....Neighbourhood Area as shown in the latest Housing Needs Assessment. At 2018, there is an identified need for.....”

Revise the second paragraph to “....20% of dwellings should be affordable of a type of tenure to be agreed with STC in accordance with the latest evidence of affordable housing need and viability.”

Delete the fourth paragraph of the policy on Lifetime Homes and paragraph 5.15.

Revise the first sentence of paragraph 5.16 to read: “....the infrastructure is available or can be made available to accommodate such development....”

Built Environment

Policy WNP2 Whitburn Design Guidelines

- 3.44 The plan makers are committed to promoting good design in the area. They have commissioned consultants to draw up the Whitburn Design Guidelines which were published in 2019 to provide locally specific guidance.
- 3.45 The policy includes a requirement that developers demonstrate how the scheme incorporates the principles of high quality and sustainable design. Particular regard should be given to the principles set out in the Whitburn Design Guidelines of 2019. It is considered that this requirement conforms to NPPF section 12 concerning the achievement of well-designed places and sets out a clear expectation about the local design character.
- 3.46 Criterion d) states that key views into and out of Whitburn are to be maintained. Eight views are shown on the Policies Map on the edge of the built up area mainly looking over the adjacent fields with occasional glimpses

of the sea. On my site visit I noticed that views from the coastal path, around the conservation area, of Cornthwaite Park and the windmill are distinctive, although they have not been included in the selected views. I also perceived that several of the selected viewpoints are over relatively flat agricultural land with no particular distinguishing features.

- 3.47 A consultation was carried out with the community in June 2020 to help to identify those views that are considered most important to local residents. The results are set out in the Whitburn Most Valued Views Report of June 2020. The report includes photographs from each viewpoint but does not fully describe the features of interest to justify the importance of the viewpoint other than being selected by the limited number of residents responding to the survey.
- 3.48 Section 3.1.1 of the Design Guidelines includes the following general design principles: *“Maintain the rural character of views and gaps. This may include, but is not limited to, retaining glimpsed outward views, protecting ‘slot’ views to key landmarks, or preventing complete enclosure of outward views from within new development;”* and *“Protect local topography and landscape features, including prominent ridge lines and long distance views;”*
- 3.49 Most of the views identified are overlooking areas of countryside within the Green Belt on the edge of the village. I have concerns that this policy could be used to constrain the delivery of future housing development in the emerging Local Plan, if additional housing allocations are considered necessary, and would therefore be contrary to national planning policy. Two representations have been made expressing this concern.
- 3.50 I am recommending that the viewpoints should be deleted from the Policies Map and that the policy should be revised to require developers to undertake a Landscape and Visual Impact Assessment of the site. This will ensure that the impact of a development proposal on views throughout the plan area will be considered.
- 3.51 Point f) requires some flexibility to be included in the wording as it will not be possible to apply it to all schemes.
- 3.52 Point g) seeks developers to demonstrate that they have incorporated opportunities to reduce the carbon footprint of the development in accordance with Policy WNP3. It is considered that the context for this design principle is sound and helps to deliver NPPF paragraph 152 which states that the planning system should support the transition to a low carbon future and should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions.
- 3.53 However it is difficult to measure the reduction in the carbon footprint of a development and planning policies cannot stipulate that developers should exceed standards set out in the Building Regulations. A recommended modification is proposed that reflects the guidance in the NPPF.

Recommendation 5: Revise Policy WNP2 as follows:

Correct the typographical error in point a) “patterns”.

Revise point d) to read: “*has considered the impact of the proposal on the rural character and views through a Landscape and Visual Impact Assessment; and*”.

Revise point f) to read: “*where appropriate and feasible, incorporates landscaping and open space, including the retention of healthy trees and hedgerows.....scheme; and*”

Revise point g) to read: “*incorporates opportunities for sustainable design to support the transition to a low carbon future adaptive to climate change in accordance with Policy WNP3.*”

Revise paragraph 5.21 to read: “*The Whitburn Design Guidelines identify the importance of maintaining the rural character of views and gaps. It states in section 3.1.1 that ‘This may include, but is not limited to, retaining glimpsed outward views, protecting ‘slot’ views to key landmarks, or preventing complete enclosure of outward views from within new development;’ and ‘Protect local topography and landscape features, including prominent ridge lines and long distance views;’. Landscape and Visual Impact Assessment (LVIA) can be key to effective planning decisions since it helps identify the effects of new developments on views and on the landscape itself.*”

Policy WNP3 Sustainable Design and Construction

- 3.54 This policy seeks to promote a high level of sustainable design and construction and seeks to incorporate energy efficiency measures to reduce carbon emissions and other pollutants.
- 3.55 The first paragraph of the policy states that “significant weight” will be given in favour of proposals incorporating the elements set out in the remainder of the policy.
- 3.56 Paragraph 5.22 states that schemes which incorporate high levels of energy efficiency and sustainable design will be supported and “additional weight” is to be given to this factor in decision making. Paragraph 5.23 seeks to promote zero carbon housing and sets out the sustainability of new development as a key material consideration in determining planning applications.
- 3.57 National planning policy in the 2015 Written Ministerial Statement makes it clear that: “...*qualifying bodies preparing neighbourhood plans should not set in their emerging... neighbourhood plans, ..., any additional local technical standards or requirements relating to the construction, internal layout or*

performance of new dwellings.” The implication of this is that energy efficiency standards are set in the Building Regulations and planning policies cannot prescribe higher standards of construction. Consequently, it is considered that point b) and paragraph 5.23 do not conform to national planning policy and I am therefore recommending that they be deleted.

- 3.58 The policy goes on to address other matters of sustainable design in the other points. These are material considerations which will be taken into account when determining a planning application in accordance with NPPF paragraph 2. There is no evidence or national planning policy to justify them being given “significant weight” in the decision making process.
- 3.59 Point a) refers to siting and orientation of buildings to optimise passive solar gain. It has not taken account of the need to balance this with suitable cooling and ventilation. A modification is proposed to address this.
- 3.60 Point e) refers to “larger development”. It is recommended that this is revised to “major development” to improve the clarity of the policy and consistency with other policies.
- 3.61 A representation has been made stating that some of the requirements may not be feasible on all developments eg the incorporation of on-site energy generation. I agree that the policy should include flexibility of all points, not just on point f).
- 3.62 A representation has been made that the policy wording should be made clearer that the requirements are aspirational as set out in the supporting text. I consider that the recommended modifications to the policy bring greater clarity to this aspirational policy.

Recommendation 6: Revise Policy WNP3 as follows:

Revise the first paragraph of the policy to read: “.....existing development should seek to include sustainable design *principles* and seek to reduce carbon emissions and other pollutants. *Support* will be given to proposals that incorporate the following elements, *where feasible*.”

Revise a) to read: “.....solar gain *whilst including suitable features for shading and cooling*.”

Delete point b).

Revise point e) to read: “within *major* housing developments, the creation....”

Delete “where feasible” from criterion f).

Revise paragraph 5.22 to read: “This policy seeks to encourage sustainable design measures in development proposals in order to mitigate the effects of climate change.”

Delete paragraph 5.23.

Policy WNP4 Whitburn Conservation Area

- 3.63 The policy gives support to proposals which preserve or enhance the character of the Whitburn Conservation Area where they accord with other policies of the development plan.
- 3.64 NPPF section 16 sets out national policy on conserving and enhancing the historic environment. I am recommending that the word “conserve” is used instead of “preserve” within the policy to conform to national policy.
- 3.65 I have noted that South Tyneside Core Strategy Policy EA1 point c) states that the “*special and separate characters of the urban fringe villages of ... Whitburn*” should be preserved.
- 3.66 The policy supports proposals that reinforce the character identified in the Conservation Area Appraisal. This is a comprehensive assessment of the character of buildings and features in the conservation area. The Policies Map shows the conservation area boundary but this is difficult to read in places. To improve the clarity of the application of the policy for plan users, it would be helpful to include a map within the text of the Plan to show the boundaries of the conservation area and the character areas.
- 3.67 The final paragraph of the policy concerns the loss of protected trees or trees of significance in the Conservation Area. The protection of trees and work to trees in conservation areas is governed by separate legislation and Regulations. It would be for STC to consider any applications for work to such trees against this legislation. It is not appropriate to include a policy in a neighbourhood plan that sets out a “strong presumption against” the loss of such trees as this could be construed to pre-determine the consideration of such applications.
- 3.68 The final paragraph of the policy requires the replanting of any protected tree or significant tree in a conservation area with two trees. It is considered that this requirement is very prescriptive and makes no provision for circumstances where it may not be possible to replant with two additional trees.
- 3.69 I am recommending that this section of the policy should be deleted and note that the subject of protecting trees and their replacement of trees is addressed in adopted Policy DM1 point C which states that “*the development protects existing soft landscaping, including trees and hedges, where possible or provides replacement planting where necessary;*”.

- 3.70 The final sentence of the policy refers to the boundary walls in the conservation area. This is worded as a description and not a policy statement. It should therefore be moved to the justification to paragraph 5.26. The final sentence of paragraph 5.27 should be deleted as a consequence of the modifications to delete the final paragraph of the policy.
- 3.71 Paragraph 5.25 states that the listed buildings at Souther lighthouse are “*effectively protected through National Trust ownership.*” Ownership of buildings affords no protection to them in planning law. It is recommended that the sentence is deleted.
- 3.72 Paragraph 5.26 states that “*the Neighbourhood Plan could identify other locally important historic buildings which may be outside the Conservation Area and therefore not already covered.*” However paragraph 5.30 states that “*a full and comprehensive survey has been undertaken*”. It is recommended that the text in paragraph 5.26 should be deleted.
- 3.73 Paragraph 5.27 refers to the list of properties in Appendix C that are covered by Article 4 Directions. This statement does not help to explain the application of the policy or the purpose of the Article 4 Directions. I am therefore recommending that it is deleted from the justification to this policy.
- 3.74 It is suggested that an explanation of the purpose of the Article 4 Directions and the type of development that is controlled could be included in Appendix C.

Recommendation 7: Revise Policy WNP4 as follows:

Revise the first line of the policy to read: “....which *conserves or enhances*....”

Delete the first two sentences of the final paragraph of the policy concerning trees.

Move the final sentence of the policy concerning boundary walls to paragraph 5.26.

Correct the typographical error in paragraph 5.25 “...concentrated in *the* centre....”.

Delete from paragraph 5.25: “These are effectively protected through National Trust ownership.”

Delete the following from paragraph 5.26: “but the Neighbourhood Plan could identify other locally important historic buildings which may be outside the Conservation Area and therefore not already covered.”

Delete paragraph 5.27.

Include a map within the text of the Plan to show the boundaries of the conservation area and the character areas.

Policy WNP5 Non-Designated Heritage Assets in Whitburn Neighbourhood Area

- 3.75 The justification to the policy states that a full and comprehensive survey of all buildings in the Neighbourhood Plan area has been undertaken to identify all buildings that are of historic significance that are not currently listed. These buildings are listed in Appendix A as non-designated heritage assets. Whitburn Heritage Character Assessment was prepared by independent consultants in June 2017 but this did not include a comprehensive survey of all potential non designated heritage assets.
- 3.76 STC published SPD21 on Locally Significant Heritage Assets in November 2011. There are Technical Appendices which set out the description of the significance of the asset with maps and photographs. Extracts from these descriptions are included against each property included in Appendix C.
- 3.77 The only addition to this list is property 31 The Old Mine Gate Posts and Plaques. No assessment or photographs has been provided in the background evidence to demonstrate the reasons for seeking to include this property on the list.
- 3.78 SPD21 includes policy statements to be applied in the consideration of proposals affecting properties on the Local List. Policy WNP5 adds no locally specific details to those included in policies in the SPD. Nor does it add any policies to those set out in national planning policy.
- 3.79 I am recommending that Policy WNP5 should be deleted as it adds no locally specific policies to those set out in national or strategic policies. The justification should be revised to refer to the South Tyneside Local List of Non-Designated Heritage Assets, SPD21 and the Technical Appendices. Development proposals affecting the non-designated heritage assets should be determined with reference to national planning policy and those set out in STC policies in the Local Plan and SPD.
- 3.80 If the evidence is sufficient to support the inclusion of property 31 on the Local List by STC, this should be included in Appendix C with a statement in the justification to this effect.

Recommendation 8: Delete Policy WNP5

Add a new heading to the Justification: “*Heritage Assets*”

Revise paragraph 5.29 to read: Retain first two sentences “There are a number ...is required.” Add “*Proposals affecting listed buildings will be considered against national planning policy and the policies in the LDF / Local Plan*”. Delete the third sentence.

Delete paragraphs 5.30 and 5.31. Replace with: “Non-designated heritage assets are buildings or places which are not currently designated for their historic interest, but nevertheless have an important role to play in local heritage. *STC has adopted SPD 21 on Locally Significant Heritage Assets which includes 30 properties in Whitburn. These assets are described in the SPD Technical Appendices and listed in Appendix A of the WNP. A survey has identified one further property which it is proposed should be considered for inclusion by STC as the Local List. This is the Old Mine Gate Posts and Plaques.*”

Add a new paragraph: “Proposals affecting a non-designated heritage asset will be considered against *national planning policy and the policies in the LDF / Local Plan and SPD21.*”

Policy WNP6 Biodiversity and Geodiversity

- 3.81 The first paragraph requires developments to deliver a minimum of 10% biodiversity net gain within the Neighbourhood Area.
- 3.82 The Environment Act which received Royal Assent in November 2021 will make a minimum of 10% biodiversity net gain mandatory once the Town and Country Planning Act is updated which is likely to be in 2023.
- 3.83 NPPF paragraph 174d) states that “*Planning policies and decisions should contribute to and enhance the natural and local environment by:*
- d. minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures*
- 3.84 NPPF paragraph 179 b: states “*Plans should:*
- b. promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity and development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.*”
- 3.85 Once the mandatory requirement for biodiversity net gain is in place (probably not until late 2023), it will be a legislative requirement, so there will be no need to repeat the legal requirements in local policy. However, until such time there is no reason to preclude plan makers, including those preparing a neighbourhood plan, from including a policy on the subject in their plans.

- 3.86 NPPG on Natural Environment states that “Plans, and particularly those containing strategic policies, can be used to set out a suitable approach to both biodiversity and wider environmental net gain, how it will be achieved, and which areas present the best opportunities to deliver gains.” (Paragraph: 021 Reference ID: 8-021-20190721)
- 3.87 A representation has stated that the policy on biodiversity net gain should align with that in the emerging Local Plan or it should be excluded and the Environment Bill’s transitional arrangements should be relied on. I have noted that a transition period is established until 2023 but no transitional arrangements have been proposed at the time of the examination.
- 3.88 The legislation has set biodiversity net gain at a minimum of 10% and provides for it to be delivered on site, offsite or via statutory biodiversity credits. I have noted that there is no guidance in the justification to explain how the policy is to be delivered. I have raised my concerns with STC who has suggested that the justification should make reference to the emerging policies and guidance documents that they are preparing. They have also suggested the addition of the words “and how they will be secured in perpetuity” to the first paragraph of the policy. I have included these modifications in my recommendations to improve the clarity of the policy.
- 3.89 The second and third paragraphs of the policy relate to sites of international and national importance. The sites are of strategic importance and their protection is addressed by policies in the adopted LDF. It is not appropriate or necessary to include a policy on these sites in a neighbourhood plan. The international sites should be deleted from the Policies Map although they may be shown on a diagram within the text of the Plan for information.
- 3.90 The fourth paragraph supports the enhancement of locally important sites for nature and identifies Local Nature Reserves, Local Wildlife Sites and Local Geodiversity Sites. It is noted that the Local Geodiversity Sites are not shown on the Policies Map.
- 3.91 The final paragraph of the policy supports the enhancement and connectivity of the wildlife corridors for biodiversity. Paragraphs 5.46 and 5.47 describe the location of the wildlife corridors with respect to the routes shown diagrammatically in the LDF. The report “Wildlife Corridors Network Review” of December 2020 prepared for STC provides evidence of sites important for wildlife and has identified and mapped the Core Sites, Secondary Features, Stepping Stones and Buffer Sites within the strategic wildlife corridors. The location of Key Species is also mapped.
- 3.92 It is recommended that the findings of this detailed review should be used instead of the diagrammatic routes shown in the LDF. The corridors and maps included in this review should be referred to in the WNP policies and the Policies Map should be revised to show the wildlife corridors from the “Wildlife Corridors Network Review” as shown on the Map supplied to me by STC.

3.93 Natural England has supported this policy.

Recommendation 9: Revise Policy WNP6 as follows:

Add the following to the end of the first paragraph of the Policy “*and how they will be secured in perpetuity*”.

Delete the second and third paragraphs of the policy on internationally and nationally designated sites.

**Add a new paragraph to the justification after paragraph 5.37:
“*Development proposals that are required to deliver Biodiversity Net Gain should consider South Tyneside Council’s emerging policies and guidance.*”**

Correct typographical error in paragraph 5.41: “South Tyneside Council”

Add the following to the end of paragraph 5.46: “South Tyneside Council completed a detailed site by site review of the wildlife corridors in December 2020. The results are set out in the report “Wildlife Corridors Network Review”. These areas are shown on the Policies Map.”

Delete “These are identified on the Policies Map” from paragraph 5.47.

Delete the internationally designated sites (SAC and SPA) from the Policies Map. Include a map of the SAC and SPA within the text of the plan for information.

Add the Local Geodiversity Sites to the Policies Map.

Revise the Policies Map to remove the indicative Wildlife Corridors and to include the areas and sites shown on the revised “Wildlife Corridor Network Review” Map of December 2020 as the Wildlife Corridor (shown in Annex 2 of the STC response to my questions).

Correct typographical error in table under paragraph 5.45 under Whitburn Point “sea *bird* watching”

Policy WNP7 Green Infrastructure Enhancement and Connectivity

3.94 The policy supports proposals to restore, maintain and enhance the connectivity and biodiversity of the Green Infrastructure Corridor which is shown on the Policies Map.

3.95 STC has prepared a Green Infrastructure Strategy (SPD 3) in February 2013. This identified and mapped a wide range of green infrastructure and opportunities for enhancement.

- 3.96 Green Belt was not included as a typology in the Green Infrastructure Strategy. It is a planning policy with a fundamental aim of preventing urban sprawl by keeping land permanently open. NPPF paragraph 140 sets out the exceptional circumstances when the boundaries of the Green Belt may be reviewed. I am recommending that the Green Belt should not be included in the list of Green Infrastructure in Policy WNP7. A map showing the Green Belt may be included in the text of paragraphs 3.7 – 3.8 for information.
- 3.97 A representation has been made that questions how this policy “for the expansion and improvement” of green infrastructure could be applied to the Green Belt. I agree that this is not an appropriate statement to include in a neighbourhood plan policy as any enlargement of the green belt is a matter for the Local Plan to consider.
- 3.98 Figure 13 of the WNP shows the Green Infrastructure Corridor covering all the land outside built up area of the village. I am recommending that this be reviewed to include those areas listed in the policy as recommended to be modified. This will be the areas shown in the STC Green Infrastructure Strategy (SPD3) and the “Wildlife Corridors Network Review” of December 2020. The Green Belt should not be shown. The Policies Map should be revised accordingly.
- 3.99 The final two bullet points in the policy are policy statements concerning tree and hedge planting and should be positioned within the following paragraph of the policy to improve clarity.
- 3.100 The next paragraph of the policy stipulates that development where the loss of trees or hedgerows is unavoidable will not be permitted unless equivalent replacement cover is provided. NPPF paragraph 2 states that applications for planning permission are to be determined in accordance with the development plan, unless material considerations indicate otherwise. It is not appropriate for a neighbourhood plan policy to state whether certain forms of development should or should not be permitted. I have recommended a modification to avoid this form of wording.
- 3.101 The NPPF paragraph 180c) sets out national planning policy on development affecting veteran trees. There is no need to repeat it in a neighbourhood plan.
- 3.102 STC has commented that it may not be feasible or practical for some sites to link to existing green infrastructure as required in point a).
- 3.103 A representation has been made that point b) is unreasonable to require the creation and enhancement of wildlife corridors through a major development site.
- 3.104 It is considered that the penultimate paragraph sets out reasonable options to help to enhance the local biodiversity as part of open space proposals and the delivery of biodiversity net gain and is in accordance with national planning policy. However, there is a need for some flexibility in the wording of

this part of the policy and a revision to improve its clarity as it is not clear whether all or only one of these options should be incorporated into the scheme. I am recommending a modification to clarify the application of this part of the policy.

- 3.105 I am proposing a modification to paragraph 5.50 to include reference to other aspects of the STC Green Infrastructure Strategy concerning tree cover.
- 3.106 Paragraph 5.53 refers to the framework of Green Infrastructure Standards and its principles. In response to my question asking for further explanation of this, the QB has referred me to the framework that is in course of development by Natural England which is due for completion in the autumn of 2022. At the time of the examination this is a record of GI data collected by a number of local authorities.
- 3.107 I have noted that STC adopted SPD3: Green Infrastructure Strategy in 2013. I am recommending that this document should be referred to in the justification as it sets out locally relevant principles applicable in the plan area.
- 3.108 Natural England has supported this policy.

Recommendation 10: Revise Policy WNP7 as follows:

Delete “Green Belt surrounding Whitburn village” from the bulleted list of green infrastructure.

Delete the Green Belt from the Policies Map. Include a map of the Green Belt within the text of the Plan in the section headed “The designated Neighbourhood Area.”

Revise the Policies Map of the Green Infrastructure Corridor to show the areas listed in the modified policy and shown on the map in Annex 1 provided to me by STC in response to my questions.

Delete the last two bullet points.

Revise the second sentence of the third paragraph of the policy to read: “Where development proposals would result in the unavoidable loss of trees or hedgerows, proposals will be supported that seek to replace the trees or hedgerow lost either on the site or elsewhere in the Neighbourhood Area.”

Add an additional paragraph after this: “Green infrastructure may be enhanced through the increase in tree cover and the use of native tree and hedge species. The reinstatement of hedgerows and hedgerow trees will be supported.”

Revise the penultimate paragraph of the policy to read: “Major housing developments *should* incorporate *at least one of the following types of* Green Infrastructure into the development: a) to d)”.

Revise paragraph 5.50 as follows: “...a strategic GI corridor which covers much of the countryside around the village of Whitburn.”

Revise the second bullet point of paragraph 5.50 to read: “the enhancement of tree cover and *maintaining the long term viability of mature trees on the village green and elsewhere through programmes of replacement.*”

Revise the last sentence of paragraph 5.53 to read: “.....will be expected to apply the principles set out in *South Tyneside Council’s SPD3 on Green Infrastructure and take account of those set out by Natural England once they have been agreed.*”

Policy WNP8 Local Landscapes and Seascapes

- 3.109 The policy requires developments affecting the landscapes of the plan area to demonstrate how the development will conserve key aspects of the character of the landscape. Six locally important landscapes, described in general terms, are listed in the policy.
- 3.110 The South Tyneside Landscape Character Study (March 2012) identifies three landscape types in the plan area: the coastal area, and two inland rural areas to the northwest of the village and to the south west. This study includes guidelines for safeguarding and enhancing the landscape of each area as well as the urban areas.
- 3.111 The policy does not define the extent of the areas of the locally important landscapes or identify their distinctive characters. There appears to be an overlap in the areas as point a) covers the countryside around Whitburn whilst b) and c) cover green approaches from the south and west. It is considered that the policy is vague and not capable of consistent interpretation by decision makers.
- 3.112 Point a) refers to far reaching views of landscapes and seascapes. I have commented on the key views under Policy WNP2 and recommended that they be deleted from the plan. I have noted representations that the key views should be deleted.
- 3.113 To improve the clarity of the policy I am recommending that it is modified to identify the three landscape character types from the South Tyneside Landscape Character Study. These areas should be shown on the Policies Map. Reference to key views should be deleted. The final paragraph of the policy should be retained.

Recommendation 11: Revise the first paragraph of Policy WNP8 and the bullet points to read:

“Development proposals should include consideration to the impact of the development on the character of the local landscape. Locally important landscapes are:

- a) *Whitburn Coast, including the Whitburn Coastal Park, the former rifle ranges, coastal areas, The Leas, Whitburn Sands.***
- b) *Lower slopes of Cleadon Hills to the north west of Whitburn, including magnesian limestone outcrops and quarry, agricultural land and nature reserves.***
- c) *Whitburn Moor – gently sloping mainly agricultural land.***

Revise the second sentence of paragraph 5.56 to read: “*The South Tyneside Landscape Character Assessment identifies the landscape area areas around Whitburn village. It also sets out guidelines to assist in the conservation of the distinctive features. The Shoreline Management Plan (SMP2 – 2007) provides guidance on the coastal area.*”

Delete paragraph 5.57.

Show the boundaries of the three landscape areas on the Policies Map.

Policy WNP9 Local Green Spaces

3.114 The policy designates seven sites as Local Green Spaces. The plan makers have undertaken a comprehensive assessment of a wide range of green spaces and set out their findings in the evidence report “Local Green Spaces Assessment August 2021.” The Report does not include detailed maps to show the location or boundaries of the sites. Other sites not selected under this policy are identified as recreational facilities and allotments under Policy WNP10.

3.115 Those areas that are outside Whitburn village are within the Green Belt. The NPPG states that “*If land is already protected by Green Belt policy,then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space.*”

It suggests that “One potential benefit in areas where protection from development is the norm (eg villages included in the green belt) but where there could be exceptions is that the Local Green Space designation could help to identify areas that are of particular importance to the local community.”

3.116 I am satisfied that the sites selected satisfy the criteria set out in NPPF paragraph 102 and are of particular importance to the local community. The sites are shown on the Policies Map but the scale of this means that it is not easy to identify the boundaries of the smaller sites. It is suggested that Inset Maps are included in the text to clearly show the boundaries of the sites.

3.117 NPPF paragraph 103 states that policies for managing development in a Local Green Space should be consistent with those for Green Belts. The first paragraph of the policy quotes this rather than setting out a particular policy. Paragraph 5.59 includes the policy wording by way of explanation. I am recommending a modification to include the policy wording as a separate paragraph in the policy instead of in the justification to improve the clarity of the policy.

Recommendation 12: Revise Policy WNP9 as follows:

Delete from the first paragraph of the policy; “which will be protected in a manner consistent with the protection of land within the Green Belt.”

Add a second paragraph to the policy to read: “*Inappropriate development should not be approved except in very special circumstances.*”

Delete from paragraph 5.59 “This means that inappropriate development on these sites will not be allowed except in very special circumstances.”

Include Inset Maps to clearly show the boundaries of the sites.

Policy WNP10 Recreational Facilities and Allotments

3.118 The policy identifies seven sports and recreational facilities and six areas of allotments which are to be protected through the policy unless the development proposal satisfies the circumstances set out to justify its loss. It is considered that this policy accords with NPPF paragraph 99.

3.119 The sites are shown on the Policies Map but the scale of this means that it is not easy to identify the boundaries of the smaller sites. It is suggested that Inset Maps are included in the text to clearly show the boundaries of the sites.

Recommendation 13: Revise Policy WNP10 as follows:

Include Inset Maps to clearly show the boundaries of the sites.

Policy WNP11 Community Facilities

3.120 The policy seeks to safeguard eleven community facilities including schools, health facilities, churches and halls.

3.121 The policy is worded that development leading to the loss of the facilities will not be permitted unless it is demonstrated that the facilities are no longer required by the community. However, paragraph 5.62 states that the applicant will additionally have to demonstrate that the use is no longer viable or demonstrate that there is an alternative similar facility within the village.

- 3.122 Neighbourhood plan policies cannot state what type of development may or may not be permitted as NPPF paragraph 2 states that applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. I am therefore recommending that the policy should be revised to read “will not be supported”.
- 3.123 To improve the clarity of the policy so that it can be interpreted consistently, I am recommending a modification to set out all the factors to be considered in the policy itself.
- 3.124 The sites are shown on the Policies Map but the scale of this means that it is not easy to identify the boundaries of the smaller sites. It is suggested that Inset Maps are included to clearly show the boundaries of the sites.

Recommendation 14: Revise Policy WNP11 as follows:

Revise the first paragraph of the policy to read: “.....identified below will not be supported unless it can be demonstrated that the facility:

- 1. Is no longer required by the community; or**
- 2. Is no longer viable; or**
- 3. that there is an alternative similar facility in Whitburn.”**

Include Inset Maps to clearly show the boundaries of the sites.

Policy WNP12 Whitburn Village Centre

- 3.125 The policy identifies the extent of the Whitburn village centre and sets out a presumption against the loss of existing retail units to uses outside Class E unless it can be demonstrated that the new use protects and/or enhances the vitality, viability and diversity of the village.
- 3.126 NPPF paragraph 86 states that “*Planning policies should: a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;*”
- 3.127 The “extent of the village centre” is shown by way of lines in the middle of the road on the Policies Map. It is considered that this means that it is unclear as to which properties the policy applies. It is recommended that a boundary is drawn around the properties on an Inset Map so that the policy can be applied consistently by decision makers and plan users. The first paragraph of the policy should be revised to refer to a “boundary” instead of “extent of”.
- 3.128 The policy refers to there being a “presumption against the loss of existing retail units” unless certain matters are demonstrated. I am recommending a

revised form of wording to be consistent with that used in other policies. The justification in paragraph 5.64 is not consistent with the policy wording and I am recommending that it should be revised to reflect the wording of the policy and the circumstances where the loss may be acceptable.

- 3.129 The third and fourth paragraphs of the policy relate to design and traffic and amenity considerations. They are worded as requirements; however no justification has been provided to support these aspects of the policy as requirements, such as development affecting a listed building. It is evident that they will be applied to all types of development proposals in a variety of types of buildings. Their application will require a degree of judgment to be applied in decision making and I am recommending a modification to introduce some flexibility in the wording of the policy. There is no need to include the word “all”.
- 3.130 STC has suggested that the policy should be revised to refer to Whitburn Local Centre to be consistent with the terminology used in the development plan. I have noted that the emerging Local Plan (now withdrawn) is proposing to include a policy on retail hierarchy referring to the centre as “Whitburn Local Centre”. The QB has informed me that they are opposed to this nomenclature. I consider that the name of the centre is not inconsistent with the adopted strategic policies and note that the other centres are described as “xxxx Village Local Centre” in the emerging Local Plan.

Recommendation 15: Revise Policy WNP12 as follows:

Revise the first paragraph to read: “The *boundary of Whitburn Village Centre....*”

Revise the second paragraph to read: “Within Whitburn Village Centre, *the loss of existing retail uses to uses outside Class E will not be supported, unless....diversity of Whitburn Village Centre.....Policy WNP11*”

Revise the third paragraph to read: “Proposals *should* ensure that physical works...”

Revise the fourth paragraph to read: “Proposalsvillage centre *should* demonstrate

Revise the second sentence of paragraph 5.64 to read: “”.....to bring about new retail units, the loss of existing retail units where planning permission is required *will not be supported unless the applicant can demonstrate the benefit of the proposal in terms of the matters set out in the policy.*”

Show the boundary of Whitburn Village Centre on the Policies Map /r Inset Map to include the boundaries of the properties to which this

policy will apply as shown on the map provided by STC in Annex 3 of the responses to my question.

Infrastructure

Policy WNP13 Sewage and Drainage Infrastructure

- 3.131 The plan makers have prepared an evidence report and a Community Action Plan (which is essentially an evidence report) to support this policy that demonstrates the significance of and impact of sewage pollution from the long sea outfall into the North Sea at Whitburn resulting in damage to the environmental quality of the foreshore which adjoins habitats of European importance and on the quality of bathing waters in the plan area.
- 3.132 Representations have been received from a local resident which have described the many problems of sewage pollution that have been experienced in the local area and the need for a strong policy stance to ensure that upgrades to water and wastewater infrastructure are delivered alongside development.
- 3.133 I have read the background evidence reports and representations carefully and appreciate the concerns of the community.
- 3.134 NPPF paragraph 174e) states that planning policies should contribute to and enhance the natural and local environment by:
- “e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;*
- 3.135 The NPPG advises that “A qualifying body may wish to consider what infrastructure needs to be provided in their neighbourhood area from the earliest stages of plan-making.” The policy has been prepared in consultation with the Environment Agency.
- 3.136 Parts of paragraphs 2 and 5 of the policy set out requirements for developers to consult the relevant water authority and the Lead Local Flood Authority. Neighbourhood Plans should set out policies to be used in the determination of planning applications; they cannot prescribe procedures for consultation on planning applications as these are set out in the Development Management Procedure Order. I am therefore recommending that this text is deleted from the policy. The justification that makes reference to these consultees may be retained.

- 3.137 The word “all” in the third and fifth paragraphs is inappropriate and unnecessary as many small and domestic proposals will be connected to an existing sewer.
- 3.138 A representation has been made to amend the hierarchy of discharge options preferences for SuDS so that the third option would be “*discharge to a public sewer network*”. As no objections have been received to the wording in the WNP in this aspect from the Environment Agency or Northumbrian Water, I make no recommendation to amend it.
- 3.139 Paragraph 5.72 in the introduction to the policy quotes from the emerging Local Plan Policies NE6 and NE7. As the emerging Local Plan has been withdrawn, the reference to it and the quote should be deleted.
- 3.140 Paragraph 5.77 refers to the Whitburn Neighbourhood Forum considering whether engagement with the water authority has taken place. As noted above, the procedures for consultation are set out in the Development Management Procedure Order. It is not for the WNF to determine which organisation should be consulted on any particular proposal. I am recommending that this paragraph should be deleted as unnecessary.
- 3.141 Paragraph 5.78 has been written as a policy, when it should be an explanation of how the policy is to be applied. I am proposing a modification to clarify this statement.
- 3.142 The Environment Agency has commented on paragraph 5.80: “*It may be useful to know that the Local Lead Flood Authority would be the main authority for construction on an ordinary watercourse, however any discharge permits would need to be applied for to the Environment Agency.*” A modification is recommended to incorporate this text.
- 3.143 The Environment Agency has suggested that reference should be included in the WNP to the Water Framework Directive (WFD) which was established to ensure that all inland and coastal waters would reach “good ecological status”. I am recommending a modification to refer to it in paragraph 5.76.
- 3.144 STC has provided me with a statement from Northumbrian Water Ltd confirming their position on the capacity in the network in the Whitburn area.
- 3.145 Paragraph 5.82 refers to a Community Action Plan. It is noted that this is a separate evidence report and will be used to further the community campaign to reduce pollution from sewage discharges.

Recommendation 16: Revise Policy WNP13 as follows:

Delete the first two sentences of paragraph 2 of the policy “Developers are required.....opportunity.”

Delete the first sentence of the fifth paragraph of the policy “For major new development ...water.”

Delete “all” from the third and fifth paragraphs

Revise paragraph 5.72 by deleting “and emerging” and “Emerging South Tyneside Local Plan policieschemical status .”

Add the following at the beginning of paragraph 5.76: “*The Water Framework Directive (WFD) was established to ensure that all inland and coastal waters would reach “good ecological status”.*”

Delete paragraph 5.77.

Revise paragraph 5.78 to read: “New development proposals in the neighbourhood area *should be able to demonstrate that they will not lead to flows of sewage being discharged into local watercourses and the North SeaOverflow.*”

Revise paragraph 5.80 to read: “*If new outfalls to ordinary watercourses are proposed the Local Lead Flood Authority would be the main authority for construction, however any discharge permits would need to be applied for to the Environment Agency.*”

Policy WNP14 Transport Infrastructure

- 3.146 The first paragraph of the policy requires developments to demonstrate through Transport Assessments the impacts of the development and how they will be mitigated. It is considered that this is unnecessary as it repeats NPPF paragraph 110e) and national planning guidance on Travel Plans, Transport Assessments and Statements. I am recommending that it is deleted from the policy and paragraph 5.85 is revised to refer to the national planning policy and guidance.
- 3.147 The second paragraph lists five junctions that are considered to suffer from traffic pressure. No background evidence has been provided to support this statement and no policy is included to explain what measures are proposed to alleviate the traffic pressure. It is recommended that this paragraph should be placed in the justification with an explanation that development schemes should give consideration to the impact of the traffic on these junctions. It would be helpful to include a map within the text to show the location of the junctions.
- 3.148 The third paragraph of the policy requires any proposal for major housing development to make provision for pedestrian and cycle access to the village centre. A representation has expressed concern that it may not be achievable to deliver a direct route from any new housing development direct to the village centre. I agree that this is unduly onerous and may not be feasible in all circumstances. I am recommending some flexibility is included in the policy.

- 3.149 An evidence report has been provided on cycling and pedestrian routes. This draws on STC's consultation on improvements to cycling and walking routes and the Local Cycling and Walking Investment Plan. This identifies a number of locations where improvements are needed to the local pedestrian and cycling network and proposals for its improvement. Paragraphs 4 and 5 of the policy relate to this investment plan and its proposals. I am recommending that these paragraphs should be combined and simplified to improve their clarity.
- 3.150 Four routes for improvement are listed in the bullet points. The policy states that they are shown on the Policies Map. Some routes are shown but it is not clear whether the routes referred to in the second and third bullet points are shown.
- 3.151 A representation has been made that the route of bullet point two is unclear and the route in the third bullet point extends beyond the plan area. The route has not been shown on the Policies Map. I am satisfied that the third route links up with a cycleway in the adjacent neighbourhood plan area and is supported by the East Boldon Forum.
- 3.152 The final paragraph of the policy states that development proposals which result in the loss of existing footpaths and cycle paths will not be permitted. As stated previously neighbourhood plan policies cannot stipulate whether development proposals can or cannot be permitted. There is any case provision under separate legislation for the rerouting of footpaths as part of a development proposal. A modification is recommended to avoid this form of wording.

Recommendation 17: Revise Policy WNP14 as follows:

Delete the first paragraph of the policy.

Delete the second paragraph of the policy. Add the bullet points in the justification after paragraph 5.85 with the addition of the following text: “*The Transport Assessment or Transport Statement should give consideration to the implications of the traffic from the development on the following junctions: points a) to e).* Include a map within the text to show the junctions in points a) to e).

Revise the third paragraph to read: “Proposals for major housing development *should, where feasible, include links to existing or proposed pedestrian and cycle routes to Whitburn village centre. Where required.....agreement.*”

Combine the fourth and fifth paragraphs to read: “*Proposals for the improvement of and extension to the existing network of cycleways, footpaths and bridleways will be supported to improve access to the village centre, green spaces, open countryside and Seaburn and East Boldon Metro Stations. The following routes are to be prioritised:*” List

as i) to iv) (not as bullet points) and show all routes on the Policies Map or an Inset Map.

Revise the final paragraph of the policy to read: “Development proposals *should avoid* the loss of existing footpaths and cycle paths.”

Revise the second sentence of paragraph 5.85 to read: “*Government guidance sets out the circumstances where Transport Assessment and Transport Statement should be prepared and the matters to be addressed.*”

Correct typographical error in paragraph 5.86: “...Local Cycling *and* Walking Investment Plan...”

Policy WNP15 Air Quality

- 3.153 The policy sets out an approach to encouraging improved air quality standards in the plan area. A background evidence report has been prepared which highlights that most outdoor air pollution in the plan area arises from emissions from transport. The A183 and B1299 are the main routes through the plan area. However, STC has advised that there are no Air Quality Management Areas in the plan area.
- 3.154 The Government’s Clean Air Strategy 2019 sets the national approach to reducing emissions over the next 20-30 years. It recognises that “*The immediate air quality challenge is to reduce emissions of nitrogen oxides in the areas where concentrations of these harmful gases currently exceed legal limits.*”
- 3.155 NPPF paragraph 186 sets out the national planning policy towards reducing air pollution. It states “*Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications.*”
- 3.156 National planning guidance addresses air quality in neighbourhood planning. It states that “*it is important to consider whether air quality is an issue when drawing up a neighbourhood..... The local planning and environmental health departments will be able to advise whether air quality is an issue that may need to be addressed in a neighbourhood area, and how this might affect potential policies and proposals that are being considered.*” Paragraph: 003
Reference ID: 32-003-20191101

- 3.157 It is evident that the plan makers have sought to develop a policy to address the community's concerns about air pollution in the area. However, I am concerned that the first paragraph of the policy is vague and imprecise and does not specify which environmental requirements are to be complied with. In any case any such requirements will not be controlled through the planning system, but will be subject to regulation and monitoring under other legislation. I am recommending that this paragraph is deleted.
- 3.158 Furthermore the final paragraph of the policy which refers to development meeting BREEAM Quality Mark Standards cannot be specified through a planning policy in accordance with Written Ministerial Statement of March 2015. This states that "*local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings.*"
- 3.159 It is not clear whether both points a) and b) have to be met or only one of them. The QB has confirmed that only one of the criteria have to be satisfied and the word "or" should be placed at the end of criterion a).
- 3.160 The third paragraph of the policy on air quality assessment is considered to be imprecise as it does not specify the type of development. STC has pointed to the document entitled Validation of Planning Applications in Tyneside 2019 which sets out the specific triggers where an air quality assessment is needed. It is recommended that reference should be included in the justification to the triggers set out in this document.
- 3.161 A representation has been received that seeks to ensure that the policy is consistent with emerging local plan policy that "*Proposals will be supported where they can demonstrate that the development does not lead to further deterioration of air quality.*"
- 3.162 As the emerging local plan has been withdrawn, there is no need to ensure consistency with the policies.

Recommendation 18: Revise Policy WNP15 as follows:

Delete the first and fifth paragraphs of the policy.

Add "or" at the end of point a).

Delete "Emerging Local Plan Policy NE10context for the policy." from paragraph 5.90. Add "*The Validation of Planning Applications in Tyneside 2019 sets out the types of development that will require Air Quality Assessments.*"

Correct the typographical error in paragraph 5.91 "A183"

Monitoring and Review

3.163 The WNP recognises that there may be a need to review the plan to consider any policy changes arising from the emerging Local Plan.

Community Projects

3.164 This section sets out five Community Projects concerning matters that cannot be addressed in the Neighbourhood Plan. It would be helpful to plan users to add a statement to confirm that this section does not form part of the Neighbourhood Development Plan.

Recommendation 19: Add the following at the end of paragraph 7.1: *“This section does not form part of the neighbourhood development plan.”*

4.0 Referendum

- 4.1 The Whitburn Neighbourhood Development Plan reflects the views held by the community as demonstrated through the consultations and, subject to the modifications proposed, sets out a realistic and achievable vision to support the future improvement of the community.
- 4.2 I am satisfied that the Neighbourhood Development Plan meets all the statutory requirements, in particular those set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and, subject to the modifications I have identified, meets the Basic Conditions namely:
- has regard to national policies and advice contained in guidance issued by the Secretary of State;
 - contributes to the achievement of sustainable development;
 - is in general conformity with the strategic policies contained in the Development Plan for the area; and
 - does not breach, and is otherwise compatible with, EU obligations and human rights requirements
- 4.3 **I am pleased to recommend to South Tyneside Council that the Whitburn Neighbourhood Development Plan should, subject to the modifications I have put forward, proceed to referendum.**
- 4.4 I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. In all the matters I have considered I have not seen anything that suggests the referendum area should be extended beyond the boundaries of the plan area as they are currently defined. I recommend that the Neighbourhood Plan should proceed to a referendum based on the neighbourhood area designated by South Tyneside Council on 25th January 2017.

5.0 Background Documents

5.1 In undertaking this examination, I have considered the following documents

- Whitburn Neighbourhood Plan Submission Draft Version September 2021
- Whitburn Neighbourhood Plan Basic Conditions Statement August 2021
- Whitburn Neighbourhood Plan Consultation Statement September 2021
- Whitburn Neighbourhood Plan SEA Screening Opinion July 2021
- Whitburn Neighbourhood Plan HRA Report July 2019
- Whitburn Housing Needs Assessment February 2018
- Whitburn Local Green Spaces Assessment August 2021
- Whitburn Green Infrastructure August 2021
- Whitburn Design Guide April 2019
- Whitburn Conservation Area Character Appraisal, STC, 2006.
- South Tyneside SPD 12 Whitburn Conservation Area Management Plan, STC, April 2007
- Whitburn Heritage Character Assessment June 2017
- Whitburn's most valued views Survey results June 2020
- Whitburn Village Centre Assessment April 2021
- Whitburn Air Quality Assessment September 2021
- Whitburn Wastewater and Sewerage Infrastructure Policy Supporting Document June 2021
- Whitburn Community Action Plan Reducing Sewage Pollution at Whitburn June 2021
- Whitburn Cycling and pedestrian routes July 20
- Whitburn Neighbourhood Plan Evidence Base and Policy Development Background Papers (June 2021)
- National Planning Policy Framework 2021 (as amended)
- Planning Practice Guidance March 2014 (as amended)
- The Town and Country Planning Act 1990 (as amended)
- The Localism Act 2011
- The Neighbourhood Planning (General) Regulations 2012
- South Tyneside Core Strategy (2007)
- South Tyneside Development Policies Document (2011)
- South Tyneside Site Specific Allocations Document (2012)
- South Tyneside Local Plan, pre submission draft plan (2019)
- Validation of Planning Applications in Tyneside – 2019
- South Tyneside SPD 3: Green Infrastructure Strategy February 2013
- South Tyneside SPD 4: Affordable Housing August 2007
- South Tyneside SPD 5: Planning Obligations & Agreements October 2008
- South Tyneside SPD 6: Parking Standards December 2010
- South Tyneside SPD 21: Locally Significant Heritage Assets November 2011 and Technical Appendices

- South Tyneside Council SPD 23 Interim SPD Mitigation Strategy for European Sites (Recreational Pressure from Residential Development) March 2018
- South Tyneside Council Strategic Land Review: Whitburn Site Assessments January 2018
- Wildlife Corridors Network Review, Burton Reid for STC, December 2020
- South Tyneside Council Cabinet 25 January 2017 Whitburn Neighbourhood Planning Area and Forum Designation
- South Tyneside Landscape Character Study (March 2012)

6.0 Summary of Recommendations

Recommendation 1: Improve the legibility of the Policies Map and / or include Inset Maps or diagrams relevant to each policy. The boundaries of all sites and areas referred to in the policies should be shown on maps at a scale that applicants and decision makers can determine whether their site is covered by that policy.

Include the definition of Major Housing Development in the Glossary.

“The provision of 10 or more dwellinghouses or the development is to be carried out on a site having an area of 0.5 hectares or more where the number of dwellings is unknown

Update paragraphs 2.4-2.5 on the emerging Local Plan.

Recommendation 2: Delete the following objective:

“Protect our Green Belt from inappropriate development.”

Recommendation 3: Delete paragraph 5.8.

Recommendation 4: Revise Policy WNP1 as follows:

Revise the first paragraph to read: “.....Neighbourhood Area as shown *in the latest Housing Needs Assessment. At 2018, there is an identified need for.....”*

Revise the second paragraph to “....20% of dwellings should be *affordable of a type of tenure to be agreed with STC in accordance with the latest evidence of affordable housing need and viability.*”

Delete the fourth paragraph of the policy on Lifetime Homes and paragraph 5.15.

Revise the first sentence of paragraph 5.16 to read: “....the infrastructure is available *or can be made available* to accommodate such development....”

Recommendation 5: Revise Policy WNP2 as follows:

Correct the typographical error in point a) “patterns”.

Revise point d) to read: “*has considered the impact of the proposal on the rural character and views through a Landscape and Visual Impact Assessment; and*”.

Revise point f) to read: “*where appropriate and feasible, incorporates landscaping and open space, including the retention of healthy trees and hedgerows.....scheme; and*”

Revise point g) to read: “incorporates opportunities for *sustainable design to support the transition to a low carbon future adaptive to climate change in accordance with Policy WNP3.*”

Revise paragraph 5.21 to read: “*The Whitburn Design Guidelines identify the importance of maintaining the rural character of views and gaps. It states in section 3.1.1 that ‘This may include, but is not limited to, retaining glimpsed outward views, protecting ‘slot’ views to key landmarks, or preventing complete enclosure of outward views from within new development;’ and ‘Protect local topography and landscape features, including prominent ridge lines and long distance views;’. Landscape and Visual Impact Assessment (LVIA) can be key to effective planning decisions since it helps identify the effects of new developments on views and on the landscape itself.*”

Recommendation 6: Revise Policy WNP3 as follows:

Revise the first paragraph of the policy to read: “.....existing development should seek to include sustainable design *principles* and seek to reduce carbon emissions and other pollutants. *Support* will be given to proposals that incorporate the following elements, *where feasible:*”

Revise a) to read: “.....solar gain *whilst including suitable features for shading and cooling.*”

Delete point b).

Revise point e) to read: “within *major* housing developments, the creation....”

Delete “where feasible” from criterion f).

Revise paragraph 5.22 to read: “This policy seeks *to encourage sustainable design measures in development proposals* in order to mitigate the effects of climate change.”

Delete paragraph 5.23.

Recommendation 7: Revise Policy WNP4 as follows:

Revise the first line of the policy to read: “....which *conserves or enhances....*”

Delete the first two sentences of the final paragraph of the policy concerning trees.

Move the final sentence of the policy concerning boundary walls to paragraph 5.26.

Correct the typographical error in paragraph 5.25 "...concentrated in *the* centre....".

Delete from paragraph 5.25: "These are effectively protected through National Trust ownership."

Delete the following from paragraph 5.26: "but the Neighbourhood Plan could identify other locally important historic buildings which may be outside the Conservation Area and therefore not already covered."

Delete paragraph 5.27.

Include a map within the text of the Plan to show the boundaries of the conservation area and the character areas.

Recommendation 8: Delete Policy WNP5

Add a new heading to the Justification: "*Heritage Assets*"

Revise paragraph 5.29 to read: Retain first two sentences "There are a number ...is required." Add "*Proposals affecting listed buildings will be considered against national planning policy and the policies in the LDF / Local Plan*". Delete the third sentence.

Delete paragraphs 5.30 and 5.31. Replace with: "Non-designated heritage assets are buildings or places which are not currently designated for their historic interest, but nevertheless have an important role to play in local heritage. *STC has adopted SPD 21 on Locally Significant Heritage Assets which includes 30 properties in Whitburn. These assets are described in the SPD Technical Appendices and listed in Appendix A of the WNP. A survey has identified one further property which it is proposed should be considered for inclusion by STC as the Local List. This is the Old Mine Gate Posts and Plaques.*"

Add a new paragraph: "Proposals affecting a non-designated heritage asset will be considered against *national planning policy and the policies in the LDF / Local Plan and SPD21.*"

Recommendation 9: Revise Policy WNP6 as follows:

Add the following to the end of the first paragraph of the Policy "*and how they will be secured in perpetuity*".

Delete the second and third paragraphs of the policy on internationally and nationally designated sites.

Add a new paragraph to the justification after paragraph 5.37: "*Development proposals that are required to deliver Biodiversity Net Gain should consider South Tyneside Council's emerging policies and guidance.*"

Correct typographical error in paragraph 5.41: “South Tyneside Council”

Add the following to the end of paragraph 5.46: “South Tyneside Council completed a detailed site by site review of the wildlife corridors in December 2020. The results are set out in the report “Wildlife Corridors Network Review”. These areas are shown on the Policies Map.”

Delete “These are identified on the Policies Map” from paragraph 5.47.

Delete the internationally designated sites (SAC and SPA) from the Policies Map. Include a map of the SAC and SPA within the text of the plan for information.

Add the Local Geodiversity Sites to the Policies Map.

Revise the Policies Map to remove the indicative Wildlife Corridors and to include the areas and sites shown on the revised “Wildlife Corridor Network Review” Map of December 2020 as the Wildlife Corridor (shown in Annex 2 of the STC response to my questions).

Correct typographical error in table under paragraph 5.45 under Whitburn Point “sea *bird* watching”

Recommendation 10: Revise Policy WNP7 as follows:

Delete “Green Belt surrounding Whitburn village” from the bulleted list of green infrastructure.

Delete the Green Belt from the Policies Map. Include a map of the Green Belt within the text of the Plan in the section headed “The designated Neighbourhood Area.”

Revise the Policies Map of the Green Infrastructure Corridor to show the areas listed in the modified policy and shown on the map in Annex 1 provided to me by STC in response to my questions.

Delete the last two bullet points.

Revise the second sentence of the third paragraph of the policy to read: “*Where development proposals would result in the unavoidable loss of trees or hedgerows, proposals will be supported that seek to replace the trees or hedgerow lost either on the site or elsewhere in the Neighbourhood Area.*”

Add an additional paragraph after this: “*Green infrastructure may be enhanced through the increase in tree cover and the use of native tree and hedge species. The reinstatement of hedgerows and hedgerow trees will be supported.*”

Revise the penultimate paragraph of the policy to read: “Major housing developments *should incorporate at least one of the following types of Green Infrastructure into the development: a) to d)*”.

Revise paragraph 5.50 as follows: “...a strategic GI corridor which *covers much of the countryside around the village of Whitburn.*”

Revise the second bullet point of paragraph 5.50 to read: “the enhancement of tree cover and *maintaining the long term viability of mature trees on the village green and elsewhere through programmes of replacement.*”

Revise the last sentence of paragraph 5.53 to read: “.....will be expected to apply the principles *set out in South Tyneside Council’s SPD3 on Green Infrastructure and take account of those set out by Natural England once they have been agreed.*”

Recommendation 11: Revise the first paragraph of Policy WNP8 and the bullet points to read:

“Development proposals should include consideration to the impact of the development on the character of the local landscape. Locally important landscapes are:

- a) Whitburn Coast, including the Whitburn Coastal Park, the former rifle ranges, coastal areas, The Leas, Whitburn Sands.*
- b) Lower slopes of Cleadon Hills to the north west of Whitburn, including magnesian limestone outcrops and quarry, agricultural land and nature reserves.*
- c) Whitburn Moor – gently sloping mainly agricultural land.*

Revise the second sentence of paragraph 5.56 to read: “*The South Tyneside Landscape Character Assessment identifies the landscape area areas around Whitburn village. It also sets out guidelines to assist in the conservation of the distinctive features. The Shoreline Management Plan (SMP2 – 2007) provides guidance on the coastal area.*”

Delete paragraph 5.57.

Show the boundaries of the three landscape areas on the Policies Map.

Recommendation 12: Revise Policy WNP9 as follows:

Delete from the first paragraph of the policy; “which will be protected in a manner consistent with the protection of land within the Green Belt.”

Add a second paragraph to the policy to read: “*Inappropriate development should not be approved except in very special circumstances.*”

Delete from paragraph 5.59 “This means that inappropriate development on these sites will not be allowed except in very special circumstances.”

Include Inset Maps to clearly show the boundaries of the sites.

Recommendation 13: Revise Policy WNP10 as follows:

Include Inset Maps to clearly show the boundaries of the sites.

Recommendation 14: Revise Policy WNP11 as follows:

Revise the first paragraph of the policy to read: “.....identified below will *not be supported unless it can be demonstrated that the facility:*

4. *Is no longer required by the community; or*
5. *Is no longer viable; or*
6. *that there is an alternative similar facility in Whitburn.”*

Include Inset Maps to clearly show the boundaries of the sites.

Recommendation 15: Revise Policy WNP12 as follows:

Revise the first paragraph to read: “The *boundary* of Whitburn Village Centre....”

Revise the second paragraph to read: “Within Whitburn Village Centre, *the loss of existing retail uses to uses outside Class E will not be supported, unless....diversity of Whitburn Village Centre.....Policy WNP11*”

Revise the third paragraph to read: “Proposals *should* ensure that physical works...”

Revise the fourth paragraph to read: “Proposalsvillage centre *should* demonstrate”

Revise the second sentence of paragraph 5.64 to read: “”.....to bring about new retail units, the loss of existing retail units where planning permission is required *will not be supported unless the applicant can demonstrate the benefit of the proposal in terms of the matters set out in the policy.*”

Show the boundary of Whitburn Village Centre on the Policies Map /r Inset Map to include the boundaries of the properties to which this policy will apply as shown on the map provided by STC in Annex 3 of the responses to my question.

Recommendation 16: Revise Policy WNP13 as follows:

Delete the first two sentences of paragraph 2 of the policy “Developers are required.....opportunity.”

Delete the first sentence of the fifth paragraph of the policy “For major new development ...water.”

Delete “all” from the third and fifth paragraphs

Revise paragraph 5.72 by deleting “and emerging” and “Emerging South Tyneside Local Plan policieschemical status .”

Add the following at the beginning of paragraph 5.76: “*The Water Framework Directive (WFD) was established to ensure that all inland and coastal waters would reach “good ecological status”.*”

Delete paragraph 5.77.

Revise paragraph 5.78 to read: “New development proposals in the neighbourhood area *should be able to demonstrate that they will not lead to flows of sewage being discharged into local watercourses and the North SeaOverflow.*”

Revise paragraph 5.80 to read: “*If new outfalls to ordinary watercourses are proposed the Local Lead Flood Authority would be the main authority for construction, however any discharge permits would need to be applied for to the Environment Agency.*”

Recommendation 17: Revise Policy WNP14 as follows:

Delete the first paragraph of the policy.

Delete the second paragraph of the policy. Add the bullet points in the justification after paragraph 5.85 with the addition of the following text: “*The Transport Assessment or Transport Statement should give consideration to the implications of the traffic from the development on the following junctions: points a) to e).* Include a map within the text to show the junctions in points a) to e).

Revise the third paragraph to read: “Proposals for major housing development *should, where feasible, include links to existing or proposed pedestrian and cycle routes to Whitburn village centre. Where required.....agreement.*”

Combine the fourth and fifth paragraphs to read: “*Proposals for the improvement of and extension to the existing network of cycleways, footpaths and bridleways will be supported to improve access to the village centre, green spaces, open countryside and Seaburn and East Boldon Metro Stations. The following routes are to be prioritised:*” List as i) to iv) (not as bullet points) and show all routes on the Policies Map or an Inset Map.

Revise the final paragraph of the policy to read: “Development proposals *should avoid the loss of existing footpaths and cycle paths.*”

Revise the second sentence of paragraph 5.85 to read: “*Government guidance sets out the circumstances where Transport Assessment and Transport Statement should be prepared and the matters to be addressed.*”

Correct typographical error in paragraph 5.86: “...Local Cycling *and* Walking Investment Plan...”

Recommendation 18: Revise Policy WNP15 as follows:

Delete the first and fifth paragraphs of the policy.

Add “or” at the end of point a).

Delete “Emerging Local Plan Policy NE10context for the policy.” from paragraph 5.90. Add “*The Validation of Planning Applications in Tyneside 2019 sets out the types of development that will require Air Quality Assessments.*”

Correct the typographical error in paragraph 5.91 “A183”

Recommendation 19: Add the following at the end of paragraph 7.1: “*This section does not form part of the neighbourhood development plan.*”