

WNP Examiner's questions

Whitburn Neighbourhood Development Plan Independent Examiner's Questions
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1. Would STC provide me with an update on progress with the emerging Local Plan. If it has been withdrawn I shall recommend that all references to its policies in the WNP should be deleted.

2. Would STC provide me with a list of the strategic policies and state whether they accord with current national planning policy.

3. I am concerned about the legibility of the Policies Map and will propose that Inset Maps should be provided to show the boundaries of properties and areas under various policies. 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.

4. A number of the policies are worded as requirements. Except where the policy delivers a requirement in national planning policy, a degree of flexibility should be introduced to the policy to ensure that it is realistic and deliverable.

5. Some policies refer to planning permission being permitted or there is a presumption in favour of a particular development. NPPF para 2 states that planning permission should be determined in accordance with the development plan unless other material considerations indicate otherwise. Neighbourhood plan policies cannot pre-determine planning applications. I shall propose revisions to such policies usually in the form of "XXX will be supported"

6. Major housing development – paragraph 5.16 states that this is 10 homes or more. It would be helpful to include the definition in the Glossary. Would the QB and LPA confirm that it should be the same as that in the Development Management Procedure Order: "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".

Agreed

7. Would STC explain the basis for the figure of 397 dwellings to be delivered over the plan period as set out in paragraphs 5.6 and 5.8 of the WNP. Was this the figure from the withdrawn Local Plan? Should reference to it be deleted from this section? If so, would the QB and STC agree revisions to paras 5.4 to 5.9. Would STC and the QB confirm that an indicative housing figure for the WNP has not been sought.

8. I am proposing that the first paragraph of the policy refer to "the latest Housing Needs Assessment".

Agreed

9. Has evidence been prepared to demonstrate that the affordable housing figure of 20% is deliverable and would not impact on viability? What is the current figure used by STC in the plan area?

Viability studies were not done because the QB didn't have the resources or expertise to do it. Viability work is usually done by the Council in preparing their own policies but the Core Strategy they were preparing has been withdrawn,

The balance the QB tried to strike was going for a figure that was slightly higher than that set out in the emerging Core Strategy, based on the fact that house prices are higher in the area. This means there is more of a profit margin and therefore it is viable to ask for a higher contribution in the Neighbourhood Area

The only housing evidence provided is that contained in the Housing Needs Assessment that AECOM did for the QB right at the beginning of the plan preparation process. That report identified that Whitburn area had higher than average house prices, resulting in more of an affordability issue there.

It should be pointed out that the rifle range development in Whitburn met Policy SC4 of the Core Strategy to provide a minimum of 25% affordable housing. In accordance with Supplementary Planning Guidance 4 (2007) on Affordable Housing, Affordable housing was provided on-site in the form of 11 affordable dwellings (out of 42 dwellings), comprising a mix of 2 and 3 bedroom properties. This was applied for in 2014, showing viability (pl appl ST/0938/14/FUL).

10. Does STC rely on the 2007 SPD on affordable housing or is there an updated guidance / procedure? I am concerned that Policy WNP1 provides no guidance on the type of affordable homes to be provided. I am proposing to revise the second para 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."

Agreed

11. Has the QB undertaken any assessment of the capacity of brownfield sites for housing development?

Yes. There are only 2 brownfield sites in Whitburn

1. Land at Whitburn Lodge: This site (0.8) hectares) is within green belt land, with a small area already developed (the Whitburn Lodge building itself). The majority of the land is a car park and therefore not developed green belt, which means the potential for redevelopment is very limited.
2. Coast Road Garage caravan storage site. This is a 0.18 hectare site and has recently had planning permission granted for 5 houses.

12. I am proposing that the fourth paragraph should be deleted as it is contrary to The Written Ministerial Statement of March 2015 which states 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.

The fourth paragraph states that:

All schemes for major housing development must ensure that sewage and drainage infrastructure is either available or can be provided in accordance with Policy WNP13.

The written statement states

Plan making:

From the date the Deregulation Bill is given Royal Assent, 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.

I would argue that the fourth paragraph does not relate to additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings but relates to the broader material planning consideration of sewage treatment capacity.

Policy WNP13 has been produced under the guidance of AECOM by way of an EBPD and agreed to by Locality to consider sewage treatment capacity at a neighbourhood level.

The fourth paragraph lends support to Policy WNP13 and should remain.

13. I am concerned that there may be other views of significant landmarks and the coast around the plan area which have not been captured through this policy. I am proposing to delete the key views from the Policies Map and to have all relevant proposals assessed through a Landscape and Visual Impact Assessment. 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". Would the QB confirm this is acceptable.

Agreed

14. As a consequence, I am proposing to revise paragraph 5.21 to read: The Whitburn Design Guidelines identifies 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. Would the QB confirm this is acceptable.

Agreed

15. Point f) requires some flexibility to be included in the wording as it will not be possible to apply it to all schemes. I am proposing to revise point f) to read: "where appropriate and feasible, incorporates landscaping and open space, including the retention of healthy trees and hedgerows.....scheme; and" Would the QB confirm this is acceptable.

Agreed

16. It is considered that this helps to deliver NPPF paragraph 152. 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. I am proposing to 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." Would the QB confirm this is acceptable.

Agreed

17. The opening para should be revised to introduce a degree of flexibility to be applied to all points. I am proposing to 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:"

Agreed

18. I am proposing to revise a) to read: ".....solar gain whilst including suitable features for shading and cooling."

Agreed

19. Planning policy cannot seek standards higher than the Building Regs (WMS March 2015) so I shall be proposing that point b) is deleted.

Agreed

20. To improve the clarity of point e) I am proposing to revise it to read: "within major housing developments, the creation...."

Agreed

21. "where feasible" to be deleted from point f).

Agreed

22. As a consequence I am proposing to 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." And to delete paragraph 5.23.

Agreed

Policy WNP4 Whitburn Conservation Area

I am proposing some minor revision to this policy so that it reflects national policy and guidance. Would the QB confirm these proposed revisions are acceptable

23. Revise the first line of the policy to read: "....which conserves or enhances...."

Agreed

24. Delete the first two sentences of the final paragraph of the policy concerning trees as this is addressed in other legislation.

Agree with first sentence – NPPF.

Mitigation – we have not seen legislation on this, unless you refer to BNG, but this would not provide the same level of mitigation.

25. The final sentence of the policy concerning boundary walls is descriptive and not policy and should be moved to paragraph 5.26.

Agreed

26. As ownership affords no protection under planning law, the following text should be deleted from paragraph 5.25: "These are effectively protected through National Trust ownership."

Agreed

27. The following text in paragraph 5.26 to be deleted as it does not accord with Policy WNP5 which states that non designated historic buildings have been reviewed as part of the plan making. "but the Neighbourhood Plan could identify other locally important historic buildings which may be outside the Conservation Area and therefore not already covered."

Agreed

28. Paragraph 5.27 does not explain the purpose of the Article 4 directions and reference to them should be deleted from the justification to the policy. An explanation could be included in the Appendix.

Agreed

Policy WNP5 Non-Designated Heritage Assets in Whitburn Neighbourhood Area

29. Policy WNP5 adds no locally specific details to those included in policies in the SPD21. Nor does it add any policies to those set out in national planning policy. I am therefore recommending that Policy WNP5 should be deleted.

Agreed

30. The only addition proposed to be added to STC's Local List is property 31 The Old Mine Gate Posts and Plaques. If so, would the QB provide me with a copy of the assessment report and the evidence and criteria used to select property 31. Has consultation with the property owners been carried out? Would STC confirm their procedures for identifying and adding properties to their Local List.

Spoken to owners who were supportive of keeping the gateposts and plaques in any development. We understand there are new owners, however, the local authority has not provided information on new owners after requesting.

31. I am proposing that the justification may be retained and revised as follows: paragraph 5.29: 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.

Agreed

32. Replace paragraphs 5.30 and 5.31 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."

Agreed

33. 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."

Agreed

Policy WNP6 Biodiversity and Geodiversity

34. Biodiversity Net Gains – has STC prepared any guidance on how this is to be delivered locally? The justification to Policy WNP6 does not provide any guidance on how this aspect of the policy is to be delivered. The Environment Act includes a number of requirements including habitats to be secured for at least 30 years and to be delivered on site, offsite or via statutory biodiversity credits. **Would STC and the QB comment on whether additional text should be added to the policy to reflect the legislation and whether a reference to any STC guidance could be included in the justification.**

35. European and national sites - such policies are strategic and should therefore be in the LDF / Local Plan. **Would STC confirm whether they have up to date policies on these sites. Do STC consider it appropriate to include these policies in the WNP?**

36. Wildlife Corridors – paras 5.46 – 5.47 Would STC confirm the status of these strategic corridors and whether the areas mapped in the Wildlife Corridors Network Review December 2020 should be referred to instead of the LDF corridors. If so, the following text may be added to the end of paragraph 5.46: “South Tyneside Council completed a detailed site by site review of the wildlife corridors in December 2020. These areas are shown on the Policies Map.”

Policy WNP7 Green Infrastructure Enhancement and Connectivity

Would the QB and / or STC comment on these as appropriate.

37. Green Belt is not identified as a typology in the GI Strategy. Green Belt is a planning policy to control urban sprawl and not a form of green space or infrastructure. I am proposing to recommend that the bullet point on the Green Belt should be deleted and the Green Belt boundary should not be shown on the Policies Map against Policy WNP7. It may be included in the text of the Plan under paragraphs 3.7 – 3.8 for information.

Agreed

38. Trees and hedges – I am proposing a revision to the wording of the policy to avoid using the wording “will not be permitted” as follows: 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.”

Agreed

39. The last two bullet points are policy statements. I am proposing that they should be set out as an additional paragraph after the bullets: “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.”

40. Veteran and mature trees. NPPF para 180c) sets out national policy on veteran trees. It is considered unnecessary to repeat it in a neighbourhood plan policy.

Agreed

41. Would the QB explain how Policy WNP7 is to improve the long term viability of mature trees?

South Tyneside's Green Infrastructure Strategy identified a strategic GI corridor, and includes potential for improvement: the enhancement of tree cover and the long-term viability of mature trees on the village green and elsewhere through programmes of replacement (p 93). Propose to amend in para 5.50 to include this complete sentence. Your proposed amendment in WNP7 on increasing tree cover should then also help to achieve this.

42. The penultimate paragraph is unclear as to how many forms of GI are required. Some flexibility is also needed. I am proposing to 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)".

Agreed

43. Has the QB considered how the provisions of Green Infrastructure and Biodiversity Net Gain are to be applied to the same development?

GI is defined in the Plan (using the NPPF's definition), explaining that it is multi-functional and can provide benefits for nature. Provisions of BNG and GI could overlap and could therefore achieve both policies, without the need to require two separate provisions if they provide functions for net gain and GI.

Defra's proposal on BNG is that:

"any measure delivered as part of a development and within a development site boundary may be counted towards biodiversity net gain provided that the biodiversity metric recognises the uplift in biodiversity value. This includes on-site measures delivered to comply with a statutory obligation or policy (such as green infrastructure, sustainable drainage, or nutrient mitigation).

These proposals for BNG are being consulted on at the moment, but show the intention not to require separate provisions.

The other way around, any measure delivered for BNG could also be counted as complying with WNP 7 if it also meets the requirements set out in that policy.

44. Policies Map of GI and Wildlife Corridors – would the QB provide me with updated maps to show the GI drawn from the STC GI strategy (SPD3) without the Green Belt and separately the revised Wildlife Corridor.

Yes – to follow up with STC

45. Are the Green Infrastructure Standards referred to in paragraph 5.53 those of SPD3?

No, these are Natural England's GI standards. The Plan includes a link to this, but after the draft was completed, some early products were released. The finished framework will be available autumn 2022. There is already a GI framework portal available now: <https://designatedsites.naturalengland.org.uk/GreenInfrastructure/Home.aspx>

Links: <https://naturalengland.blog.gov.uk/2021/12/07/how-natural-englands-green-infrastructure-framework-can-help-create-better-places-to-live/>

Policy WNP8 Local Landscapes and Seascapes

46. The locally important landscape areas have not been defined or their distinctive character described. I consider that the policy is vaguely worded, the areas are not clearly defined and the policy could not be interpreted consistently by decision makers. I am considering proposing to revise the policy to refer to the landscape character areas defined in the South Tyneside Landscape Character Study. Would the QB and STC confirm that this would be acceptable to them. If so, the following policy wording would be proposed:

" Development proposals should include consideration of 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 north west of Whitburn, including magnesian limestone outcrops and quarry, agricultural land and nature reserves.
- c) Whitburn Moor – gently sloping mainly agricultural land.

Agreed

47. Is the Shoreline Management Plan current and relevant?

STC?

Policy WNP9 Local Green Spaces

48. I am proposing that the policy should include specific wording on the protection of the LGS to replace the statement in the first paragraph as follows: "Inappropriate development should not be approved except in very special circumstances."

If the proposal is for the first paragraph to read:

The sites listed below and shown on the policies map are designated as areas of Local Green Spaces and inappropriate development should not be approved except in very special circumstances.

.....then agreed.

Policy WNP11 Community Facilities

49. Paragraph 5.62 includes additional policy requirements. Would the QB consider whether these should be included in the policy 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 is

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

Agreed

Policy WNP12 Whitburn Village Centre

50. Would the QB comment on whether this should be revised to "Whitburn Local Centre" as suggested by STC to be consistent with the terminology used elsewhere.

The QB strongly object to the suggestion by STC to renaming this to "Whitburn Local Centre". Whitburn Village has an extensive history that predates the formation of South Tyneside Borough. The Village is not a 'new town', or a suburb of any nearby township and it is important to the residents of Whitburn that the identity of Whitburn Village as a village is not further eroded by such a renaming exercise.

51. The indication of the extent of the village centre by way of lines in the middle of the road means that the policy is vague and cannot be applied consistently by decision makers to specific buildings / properties. I am proposing to recommend that a boundary line should be drawn around the properties to which the policy will apply. This should be shown clearly on an Inset Map. Would the QB provide me with a map for this purpose?

STC have agreed to supply the requested maps.

52. I am proposing to replace "presumption against " with "will not be supported" to be consistent with the wording used in other policies. The justification in paragraph 5.64 is not consistent with the policy wording and should be revised to reflect the exceptional circumstances where the loss of such units will be justified. 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."

Agreed

Policy WNP13 Sewage and Drainage Infrastructure

53. Consultees are prescribed in the Development Management Procedure Order. A neighbourhood plan policy cannot set out who should be consulted on any particular form of development. I shall be recommending that reference to consultation in the second (sentence 1 and 2) and fifth (first sentence) policies and paragraph 5.77 should be deleted.

Agreed - this alters the second policy to

Planning proposal will not be supported unless it can be shown by rigorous analysis that there is sufficient capacity in the local sewage system and that any new connections will not increase the risk of system backup/flooding or cause any adverse impact to the neighbourhood area environment.

Agreed the fifth policy is altered to

All developments are strongly encouraged to have appropriate regard to existing and emerging relevant local evidence including South Tyneside's Surface Water Management Plan, Flood and Coastal Risk Management Strategy, Strategic Flood risk assessment and Preliminary Flood Risk Assessment

5.77 should be deleted. -

Agreed – as the Forum will not exist once the plan is adopted

54. Paragraph 5.78 refers to development being designed in a way that flows of sewage are not discharged into local water courses. Is this correct as sewage is usually required to be discharged into a foul sewer or a septic tank.

Sewage in the Borough of South Tyneside is routinely discharged into local water courses via combined sewer overflows. South Tyneside has 63 CSOs. These spilled at least 1197 times in 2020 alone.

55. Community Action Plan – this appears to be a further evidence report. No projects are included in the Community Projects section of the WNP. Are there any proposed actions that the community intends to pursue?

The overall objective of the Community Action Plan is to Stop Sewage Pollution at Whitburn, and eventually in the wider area.

This will only come about by campaigning with like-minded groups such as the local MP, the East Boldon Forum, South Tyneside Environmental Protection group, the Citizen's Assembly for South Tyneside and the Green Party.

The actions that are ongoing are to lobby local authorities, challenge the local water company, challenge the EA and report the issue to the parliamentary Environmental Committee and the Office for Environmental Protection.

The Action Plan came about due to the advice of AECOM who conducted an Evidence Base and Policy Development exercise on both the Sewage and Air quality policies and gave the following advice on the proposed sewage policy:

It is clear that the individuals comprising the Forum have waged (and continue to wage) a long and admirable battle to improve wastewater treatment and water quality along the South Tyneside and Sunderland coasts, neighbourhood plans are extremely constrained in being able to address issues this strategic. As such, Policy WNP13 needs to be thought of as one small, necessarily constrained, prong in an ongoing multi-pronged strategy. The neighbourhood plan, due to the constraints on what neighbourhood plans can and cannot influence, will not be able to solve the problem as a whole, and therefore the Forum can (and should) continue to seek to influence Environment Agency, Northumbrian Water and South Tyneside policies and decisions as is their democratic right, but in many cases this will have to take place outside rather than as part of the neighbourhood plan process.

A review of the document's references to neighbourhood planning specifically suggests that this would leave only a) the NPPF references, b) the PPG references and c) the evidence of pollution within the neighbourhood plan area itself, i.e. at Whitburn Beach.

The remainder of the document text should, however, be retained as a strategic underpinning for the Forum's ongoing challenge to strategic policy and decisions but should be renamed accordingly to avoid giving the incorrect impression that it contains evidence directly able to inform or influence policy WNP13 specifically.

Separating out the small elements of the wider issue directly relevant to the neighbourhood plan from the multiple elements of the issue not relevant to the neighbourhood plan but of use in any legal challenge, local plan or Northumbrian Water consultation responses, etc. will, in the long term, strengthen both the neighbourhood plan and the rest of the lobbying campaign.

Policy WNP14 Transport Infrastructure

56. It is considered that the first paragraph is unnecessary as it repeats NPPF paragraph 110e) and national planning guidance on Travel Plans, Transport Assessments and Statements. I am proposing to delete it and revise para 5.85 to refer to the NPPF.

Agreed

57. 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. I am proposing 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.

Agreed

58. Flexibility is required in the third paragraph which I am proposing to revise 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.”

Agreed

59. Paragraph 4 of the policy refers to Metro Stations (name them?). Does the QB wish to name any specifically?

Name of Metro Stations – Seaburn and East Boldon

60. Paragraphs 4 and 5 of the policy relate to the Local Cycling and Walking Investment Plan and its proposals. I am proposing that these paragraphs should be combined and simplified to improve their clarity. “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 XX Metro Station. The following routes are to be prioritised:”

List i) to iv) and show routes on an Inset Map.

Agreed

STC have agreed to supply the requested maps.

61. There is provision under separate legislation to divert footpaths as part of developments. I am proposing a less prescriptive form of wording. Revise the final paragraph of the policy to read: “Development proposals should avoid the loss of existing footpaths and cycle paths.”

Agreed

Policy WNP15 Air Quality

62. As there are no Air Quality Management Areas in Whitburn, would STC confirm whether, based on their evidence, that there is an air quality issue in the Plan area and what measures can be achieved through planning controls to address it?

The Air Quality Assessment produced by the QB show that there is an air quality issue. The measurements of NO2 data for 2019 show a smoothed-out average due to the type of monitor used. The air quality will be significantly worse at peak traffic times compared with overnight when traffic levels are negligible. The monitor has been shown to be badly placed so does not capture the higher readings which are present at the height of the breathing of children in pushchairs, or pedestrians.

63. First paragraph – is vague and does not identify which requirements have to be met and who is responsible for regulating or monitoring them. If they are required under other legislation there is no need to specify them in planning policy.

Is the recommendation to delete this first paragraph - Agreed

64. Last paragraph is contrary to the Written Ministerial Statement of March 2015 which states that neighbourhood plan cannot include “any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings.”

Agreed-

Question for the examiner -Has the recommendations of the statement been adopted in planning law?

65. Should there be the word “or” at the end of point a)?

Yes