

Whitburn Neighbourhood Forum

Evidence Base and Policy Development

Final Report

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Quality information

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Abbreviations used in the report

Abbreviation

AQMA	Air Quality Management Area
AQN	Air Quality Neutral
BREEAM	Building Research Establishment Environmental Assessment Method
CSO	Combined Sewer Overflow
Defra	Department of the Environment, Food and Rural Affairs
EA	Environment Agency
EBPD	Evidence Base and Policy Development
ECJ	European Court of Justice
EiP	Examination in Public
EU	European Union
HRA	Habitats Regulations Assessment
LLFA	Lead Local Flood Authority
LPA	Local Planning Authority
MHCLG	Ministry of Housing, Communities and Local Government
NPPF	National Planning Policy Framework
PFRA	Preliminary Flood Risk Assessment
PPG	Planning Practice Guidance
SAC	Special Area of Conservation
SFRA	Strategic Flood Risk Assessment
SINC	Site of Importance for Nature Conservation
SPA	Special Protection Area
SPD	Supplementary Planning Document
SSSI	Site of Special Scientific Interest
STC	South Tyneside Council
STW	Sewage Treatment Works
SuDS	Sustainable Urban Drainage System
SWMP	Surface Water Management Plan
WNF	Whitburn Neighbourhood Forum
WNP	Whitburn Neighbourhood Plan
WwTW	Wastewater Treatment Works

Executive Summary

Introduction

Whitburn Neighbourhood Forum (henceforth WNF) is developing a neighbourhood plan for the village of Whitburn, which lies in South Tyneside's Council area in the North East of England.

As part of the development of the Neighbourhood Plan and its evidence base, WNF applied successfully to Locality for support from AECOM as part of its Supporting Communities in Neighbourhood Planning project.

This document comprises an Evidence Base and Policy Development (EBPD) study provided by AECOM to WNF.

The aim of the EBPD is to review, for selected policies in the neighbourhood plan, the existing evidence base and policies, identify any gaps within them, and then present options and recommendations based not only on the existing evidence base and policies but also on any additional relevant information that applies.

The EBPD reviews and comments on emerging policies, in particular in terms of any amendments that may be required to ensure that the policies meet the Basic Conditions of neighbourhood planning.¹

The review of existing policies will be comprehensive, in that it will assess not only the policy text itself but also the evidence upon which that policy is based. It seeks to verify that:

- Evidence has been assembled from robust sources;
- Stakeholder-derived evidence has been considered in an inclusive way;
- Relevant third-party comments/issues have been addressed;
- Reasonable conclusions have been drawn from that evidence;
- All useful evidence available has been referenced;
- There are no evidence gaps that need to be filled;
- The draft policy is clearly written, distinct from and in general conformity with the strategic policies in the adopted and emerging development plans, which for neighbourhood plans in South Tyneside comprises the Core Strategy 2007 (adopted), Development Management Policies 2011 (adopted), Site-Specific Allocations 2012 (adopted)² and Local Plan (emerging); and
- The policy meets the Basic Conditions.

¹ Available at <https://www.gov.uk/guidance/neighbourhood-planning--2#basic-conditions-for-neighbourhood-plan-to-referendum>

² All adopted Local Plan documents for South Tyneside are available at <https://www.southtyneside.gov.uk/article/36015/Local-Development-Framework>. The emerging Local Plan is available at <https://www.southtyneside.gov.uk/article/36012/Emerging-Local-Plan>.

If the AECOM review finds that the draft policy or the evidence on which it is based has any potential for strengthening or improvement, recommendations in this regard will be clearly set out.

General findings

Neighbourhood plan policies should not repeat existing national and local planning policies. In a robust neighbourhood plan, neighbourhood policies either increase the effectiveness and/or specificity of local plan policies (i.e. by adding local criteria and/or taking local context into account) or propose a policy where there was previously a policy void.

Where WNF supports STC's existing policy approach this can simply be referenced in supporting text rather than comprising a policy in its own right. Developing measurable metrics (targets or indicators) to monitor effects of implementation is another way of ensuring the neighbourhood plan can add value over and above local and national policies.

All evidence that WNF relies on in developing its planning policies should be properly documented within the Neighbourhood Plan. The supporting text to each policy must refer to the evidence base used to inform that policy approach, summarising the key points which will help demonstrate how robust the policy is. The supporting text, which should stand alone from and be more clearly differentiated from the policy text itself, should explain why the policy is required and signpost the reader to the plan's evidence base where they can find additional information.

Supporting text should also reference higher-level evidence and policy, for example from the South Tyneside Plan and/or its evidence base documents and policies, as this will help support the policies and provide further justification.

In certain cases, additional evidence work may be required to enhance the robustness of policies. As a general rule, the more a policy departs from or goes beyond the local plan (e.g. in terms of standards), the more evidence is required. It is recommended that the Neighbourhood Forum conducts a further check of its draft final policies to ensure they are adding value to the Local Plan and are locally specific to the neighbourhood. Ideally this should be done with the LPA's Neighbourhood Planning Officer.

1.1 [Headline summary of policy specific findings \(full details in Appendix 1\)](#)

1.1.1 [WNP13: Sewage and Drainage Infrastructure](#)

The current policy and its supporting evidence at present are too long and complex. The supporting evidence contains much that is not directly relevant to a neighbourhood plan policy and, while it should be retained to support the Forum's wider campaign for improved wastewater treatment and water quality locally, it should not be badged as supporting WNP13 specifically. Rather, text within it that is relevant to the policy should be merged into the existing supporting text so the supporting text is all in one place.

At the same time, the rest of the supporting text should be entirely rewritten to support the amended policy, shifting its focus from the responsibilities of parties other than developers toward requirements for developers only, referencing national and local

policy and evidence as appropriate. One or more community projects within the neighbourhood plan could include measures and aspirations that it is not possible to state in the policy itself. The policy should be thought of as one smaller element in the Forum's wider strategy of addressing this topic, rather than forming the main or the only way to address it.

There are many elements of the existing policy that would mean it fails the Basic Conditions of neighbourhood planning, and its length and complexity would also hamper policy effectiveness as it would be difficult for developers and development managers to use or apply. Taking all of AECOM's numerous recommendations together, therefore, it is recommended that the policy be redrafted along the following lines:

'The net increase in wastewater generation should be considered as appropriate in new development, as well as the impact the development may have elsewhere in the sewage and drainage network. Development will be supported where it is demonstrated that its surface water drainage will not add to existing site runoff or cause any adverse impact to neighbouring properties and the surrounding environment.'

Developers are required to consult as appropriate with the relevant water authority on sewage and drainage infrastructure, including on any Section 104 requirements. Developers are strongly encouraged to commence pre-application discussions with the water authority at the earliest possible opportunity, and the Forum will seek evidence from developers that such engagement has taken place in cases where it is required. Planning proposals will not be supported unless it can be shown by rigorous analysis that there is sufficient capacity in the local sewerage system and that any new connections will not increase the risk of system back up/flooding.'

All development is encouraged to incorporate Sustainable Urban Drainage (SuDS), with run-off rates no greater than greenfield sites and designed, where possible, to contribute towards the landscaping and biodiversity of the development and with provision made for future maintenance. The hierarchy of discharge option preference is:

- 1. Soakaway or other infiltration system;*
- 2. Discharge into a watercourse;*
- 3. Discharge to surface water sewer;*
- 4. Discharge to combined sewer.*

Proposals which allow surface water drainage into the combined sewer system will only be supported if the developer can demonstrate that the proposal is unable to make proper provision for surface water drainage to ground, watercourses or surface water sewers.

For major new developments the Lead Local Flood Authority is to be consulted in relation to surface water. 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.'

1.1.2 WNP15: Air Quality

Footnotes and cross-references to relevant evidence (including WNP Appendix D) and adopted/emerging national and local policy should be added to the supporting text. Additionally, it should be made clear that only emissions from traffic and not from other sources have been gathered as evidence.

The evidence in the Air Quality Assessment Version 2 shows that it is likely that traffic through Whitburn contributes to poorer air quality within 200 metres of main roads, but that is, scientifically and in terms of policy, about the only conclusion that can be stated without further detailed evidence gathering (which is not recommended).

The presentation of the diffusion tube data could be improved. The data should be presented with the annual mean for each year, and the bias adjustment method stated.

The policy states that new development should be Air Quality Neutral (AQN) but this is a policy/methodology specific to London, so cannot be applied in Whitburn because the benchmarking would be inaccurate. An alternative and more suitable approach is calculation of the 'damage cost' of the development, but the emerging South Tyneside Local Plan does not require this and the only AQMAs in South Tyneside are outside the neighbourhood plan area. As such, requiring developers to provide a more comprehensive assessment of air quality in Whitburn could be vulnerable to challenge; this assessment is made on the basis of the constraints applying to neighbourhood plan policy rather than the merits or otherwise of requiring assessment. Rather, assessment could perhaps be encouraged for all development within 200 metres of main roads (as opposed to major development anywhere in the plan area), because the evidence gathered suggests this is where it is most needed.

Requiring an indoor air quality assessment for major development in an area that is not substantially above the ambient air quality objectives or within an AQMA will be difficult to justify. However, importantly, indoor air quality assessments are part of BREEAM, and it is therefore recommended that either this policy (or other relevant neighbourhood plan policies, e.g. on development design) be amended to require buildings to meet BREEAM standards (or their successor) for this reason. While there is no guarantee that a requirement for BREEAM would be accepted by the Examiner, the worst that can happen is that he or she would downgrade it to encouragement, which is better than not referencing BREEAM at all.

References in the policy and supporting text to EU air quality objectives should be updated post-Brexit.

If the recommendations set out above were implemented the policy would become easier to understand and apply and therefore as effective as it is possible to be within the relevant applicable evidence and policy constraints.

Subject to the amendments recommended above, the policy should be in conformity with national and adopted/emerging local policy, but without duplicating or restating their requirements.

2. Introduction

2.1 About this document

1. The 2011 Localism Act introduced neighbourhood planning, allowing parishes or Neighbourhood Forums across England to develop and adopt legally binding development plans for their neighbourhood area.
2. Whitburn Neighbourhood Forum (henceforth WNF) is developing a neighbourhood plan for the village of Whitburn, which lies in South Tyneside's Council area in the North East of England.
3. As part of the development of the Neighbourhood Plan and its evidence base, WNF applied successfully to Locality for support from AECOM as part of its Supporting Communities in Neighbourhood Planning project.
4. This document comprises an Evidence Base and Policy Development (EBPD) study provided by AECOM to WNF.
5. The aim of the EBPD is to review, for selected policies in the neighbourhood plan, the existing evidence base and policies, identify any gaps within them, and then present options and recommendations based not only on the existing evidence base and policies but also on any additional relevant information that applies.
6. The EBPD reviews and comments on emerging policies, in particular in terms of any amendments that may be required to ensure that the policies meet the Basic Conditions of neighbourhood planning.³
7. The review of existing policies will be comprehensive, in that it will assess not only the policy text itself but also the evidence upon which that policy is based. It seeks to verify that:
 - Evidence has been assembled from robust sources;
 - Stakeholder-derived evidence has been considered in an inclusive way;
 - Relevant third-party comments/issues have been addressed;
 - Reasonable conclusions have been drawn from that evidence;
 - All useful evidence available has been referenced;
 - There are no evidence gaps that need to be filled;
 - The draft policy is clearly written, distinct from and in general conformity with the strategic policies in the adopted and emerging development plans, which for neighbourhood plans in South Tyneside comprises the Core Strategy 2007 (adopted), Development Management Policies 2011 (adopted), Site-Specific Allocations 2012 (adopted)⁴ and Local Plan (emerging); and

³ Available at <https://www.gov.uk/guidance/neighbourhood-planning--2#basic-conditions-for-neighbourhood-plan-to-referendum>

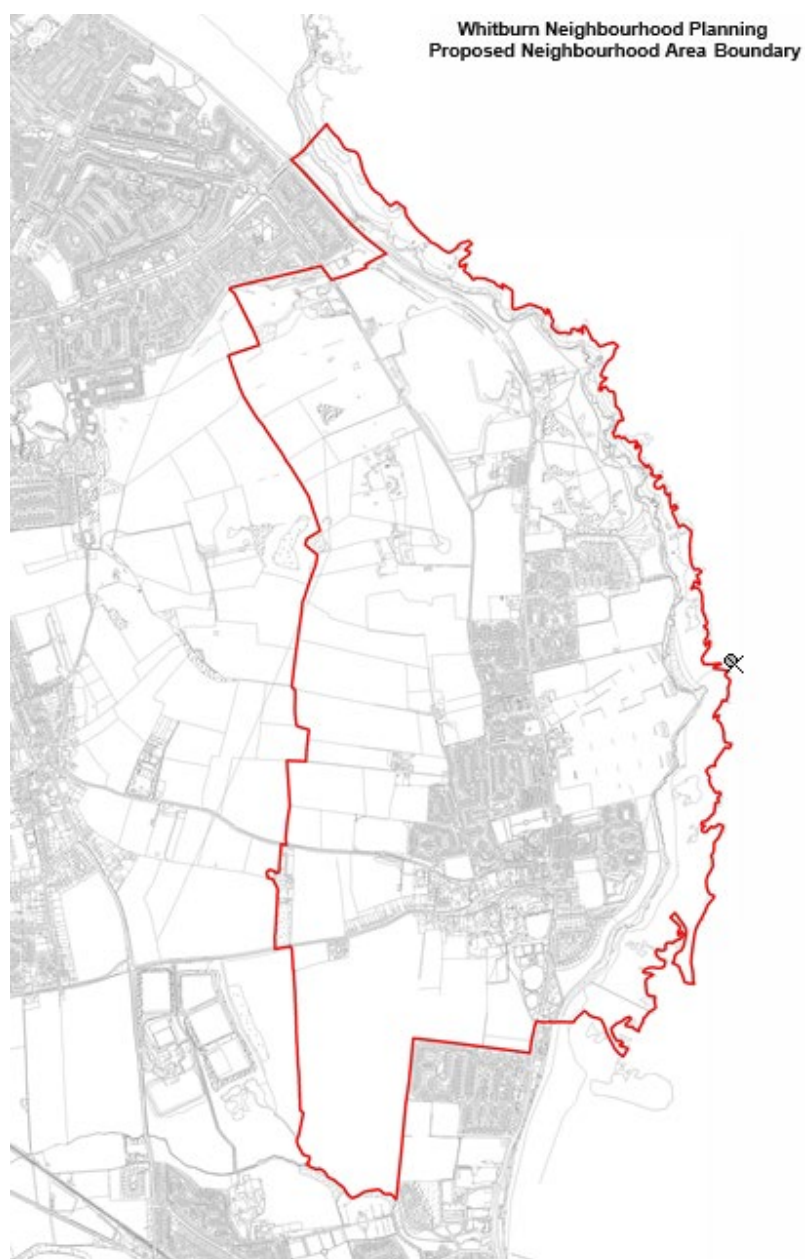
⁴ All adopted Local Plan documents for South Tyneside are available at <https://www.southtyneside.gov.uk/article/36015/Local-Development-Framework>. The

- The policy meets the Basic Conditions.
8. If the AECOM review finds that the draft policy or the evidence on which it is based has any potential for strengthening or improvement, recommendations in this regard will be clearly set out.

2.2 Local context

9. Figure 1 below illustrates the Neighbourhood Plan area.

Figure 1: Whitburn Neighbourhood Plan Area⁵



Source: South Tyneside Borough Council

emerging Local Plan is available at <https://www.southtyneside.gov.uk/article/36012/Emerging-Local-Plan>.

⁵ Available at <https://www.southtyneside.gov.uk/article/57607/Whitburn-Neighbourhood-Planning>

2.3 Planning Policy and Evidence Base

10. This sub-section summarises the relevant local planning policy and evidence base. This entails a review of the following: the three relevant South Tyneside adopted Local Development Framework documents, the South Tyneside emerging Local Plan and Whitburn Conservation Area Character Appraisal.

2.3.1 South Tyneside Adopted Core Strategy (2007)

11. The South Tyneside Core Strategy DPD (Development Planning Document) was adopted in July 2007. The plan sets out the spatial vision across the Borough up to the current year (2021) through sixteen policies. Because it pre-dates the National Planning Policy Framework (NPPF)⁶, it is regarded as 'out of date' for planning purposes, meaning that if there are NPPF policies or provisions that conflict with it, it is the NPPF that takes precedence. With this caveat in mind, relevant policies within it, as well as any relevant evidence base studies produced by STC that support it⁷, will be reviewed as appropriate.

2.3.2 South Tyneside Adopted Development Management Policies (2011)

12. The Development Management Policies DPD was adopted in December 2011. It complements the Core Strategy by setting out nine policies against which planning applications will be tested. Like the Core Strategy, because it was prepared before 2012, it is now regarded as 'out of date' for planning purposes, meaning that if there are NPPF policies or provisions that conflict with it, it is the NPPF that takes precedence. With this caveat in mind, relevant policies within it will be reviewed as appropriate.

2.3.3 South Tyneside Adopted Site-Specific Allocations (2012)

13. The Site-Specific Allocations DPD was adopted in April 2012. It contains a further twelve policies allocating specific locations for development. The policy with implications for Whitburn is SA9, which provides for 77 net new dwellings at Rackly Way/Holly Avenue, 5 new dwellings at Church Lane (former Church Lane House), and a further 5 at Coast Road Garage, Marsden, thus a total of 87 net new dwellings for the village.

2.3.4 Supplementary Planning Documents (SPDs)

14. The adopted Local Plan is accompanied by a number of SPDs⁸ that will be reviewed and cited as appropriate for the purposes of this EBPD.

⁶ Available online at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf

⁷ Available at <https://www.southtyneside.gov.uk/article/36020/Supporting-Documentation-and-Evidence-Base-Studies>

⁸ Available at <https://www.southtyneside.gov.uk/article/36021/Supplementary-Planning-Documents>

2.3.5 South Tyneside Emerging Local Plan (2019)

15. The emerging Local Plan is at a relatively early stage, having been subjected to a single round of public consultation (known as Regulation 18) in 2019. It will be subjected to a further round of consultation (Regulation 19) before then being submitted to the Secretary of State for Examination in Public (EiP) by an independent Examiner. It currently contains 79 draft policies.
16. Once it has been approved by the Examiner, it will become the new adopted Local Plan for the area, thus replacing the now out-of-date Core Strategy, Development Management Policies and Site-Specific Allocations DPDs. Although neighbourhood plans need to be in conformity with adopted rather than emerging policy, in practice it is often possible to be in conformity with both and this has the important advantage of minimising updates needed to the neighbourhood plan after the emerging Local Plan is adopted.
17. The emerging Local Plan is, at the time of writing, considering allocating a number of sites in Whitburn for residential development, totalling 397 new homes (draft Policy H1 b ii)). However, it is possible that some of these sites may not be allocated in the final adopted Local Plan and the number of homes may change as a result- the Council will make a final decision based on existing and emerging evidence and then will have to defend that decision at EiP.

2.3.6 Whitburn Conservation Area Character Appraisal (2006)⁹

18. Whitburn Conservation Area was originally designated in 1973 and covers the historic core of the village. The 2006 Character Appraisal provides extensive detail on its key features and assets and will be reviewed as village-specific evidence to the extent it is relevant to do for the purposes of this EBPD.
19. One of the SPDs on the STC website is the Conservation Area Management Plan (CAMP) for Whitburn¹⁰, which seeks to manage the impacts of development on Whitburn conservation area in line with the Character Appraisal.

⁹ Available at [https://www.southtyneside.gov.uk/media/2229/Whitburn-Conservation-Area-Character-Appraisal-February-2006-
/pdf/Whitburn CA Character Appraisal \(February 2006\).pdf](https://www.southtyneside.gov.uk/media/2229/Whitburn-Conservation-Area-Character-Appraisal-February-2006-
/pdf/Whitburn CA Character Appraisal (February 2006).pdf)

¹⁰ Available at [https://www.southtyneside.gov.uk/media/1937/SPD12-Whitburn-Conservation-Area-Management-Plan-August-2007-
/pdf/final_spd_12_whitburn_aug_2007 .pdf](https://www.southtyneside.gov.uk/media/1937/SPD12-Whitburn-Conservation-Area-Management-Plan-August-2007-
/pdf/final_spd_12_whitburn_aug_2007 .pdf)

2.3.7 Neighbourhood plan activity

Emerging Neighbourhood Plan

20. Since approval of the Whitburn Neighbourhood Plan area by STC, there has been much progress on the neighbourhood plan.

21. It has been agreed with the Neighbourhood Forum that this EBPD report will review two of the fifteen policies in the emerging draft neighbourhood plan, as well as the existing and potential evidence supporting them. The policies to be reviewed are numbered and named as follows:

- WNP13: Sewage and Drainage Infrastructure
- WNP15: Air Quality

Other relevant evidence documents

22. At project inception, WNF provided AECOM with a range of other relevant evidence documents relating to the Neighbourhood Plan. These comprise:

- Whitburn Neighbourhood Plan Air Quality Assessment (April 2021, Version 2); and
- Whitburn Neighbourhood Plan Wastewater and Sewerage Infrastructure Policy Supporting Document (April 2021).

23. These evidence base documents have been reviewed as appropriate throughout this report.

3. Assessment methodology

3.1 Assessment of evidence base

24. The evidence base for neighbourhood planning needs to be 'proportionate', i.e. relate well in terms of breadth, depth and scope to the policy being proposed. In line with this approach, the Government's Planning Practice Guidance (PPG)¹¹ expects most evidence in neighbourhood planning to be 'secondary' (i.e. already collected by another party, making evidence gathering more of an exercise in assembling, interpreting and showing understanding of existing data).

25. Any evidence used should be clearly referenced and presented in an accessible way to justify policies, both for the purpose of examination and for the benefit of residents reading a plan as well as interested parties such as landowners and developers, some of whom may be impacted.

26. Evidence can come from several sources, including:

¹¹ <https://www.gov.uk/guidance/neighbourhood-planning--2>

- the adopted or emerging Local Plan (from a policy conformity perspective¹²);
- Local Plan evidence base studies that inform policy documents (e.g. the Strategic Housing Land Availability Assessment or equivalent and Employment Land Review);
- technical primary evidence generated or commissioned by the Neighbourhood Forum itself (e.g. green infrastructure assessment);
- stakeholder-derived primary evidence generated or commissioned by the Neighbourhood Forum (e.g. a survey of local households and businesses); and
- relevant national reports, studies and data such as the 2011 Census.¹³

3.2 Assessment of evidence base (see also Appendix 1)

27. AECOM's evidence review focuses on three lines of inquiry:

- **Policy understanding**, which summarises what assessors think the policy intent is and follows on from an inception call with the group.
- **Evidence assembly**, which covers basic checks including:
 - Whether evidence has been gathered from verifiable and reputable sources;
 - Whether any third party comments have been taken into account (e.g. from developers, landowners, statutory bodies): and
 - Whether there are any gaps and obvious sources not referred to (e.g. Local Plan background studies).
- **Evidence analysis**, which considers whether the evidence referred to has been appropriately understood, analysed and reasonable conclusions reached in drawing up policy. A distinction is made between stakeholder-derived (e.g. from local household or business surveys) and technical evidence in terms of how well the evidence was analysed, although both are treated as equally important. This stage of the review also considers:
 - Whether evidence is, on balance, proportionate; and
 - Whether the evidence has already had a degree of external scrutiny (e.g. from the Local Planning Authority, LPA) in which case such comments are considered.

¹² In applying basic condition 'e,' 'general conformity' relates to the adopted, not emerging Local Plan (see PPG, Paragraph: 065 Reference ID: 41-065-20140306). However, the evidence behind any emerging Local Plan is part of the evidence base for the NDP and it is important the NDP takes account of policy development within it given that, once adopted the new Local Plan policies will supersede those in the NDP.

¹³ While it is recognised that the 2011 Census is increasingly out-of-date, there is no alternative but to continue to use it where relevant because the first usable results of the 2021 Census will not be published until at least 2022.

3.3 Policy review (see also Appendix 1)

28. After examining the evidence that underpins each policy, the review considers the following questions in terms of meeting the Basic Conditions¹⁴ of a neighbourhood plan:

- Is the policy spatial in nature and therefore within the scope of a development plan or is it supporting a community project?
- Can the policy be reasonably implemented by planning officers (within planning legislation) when deliberating on planning applications?
- Does the policy have due regard to national policy and guidance?
- Does the policy comply with human rights law?
- Is the policy in general conformity with adopted strategic local plan policy? Does it add value to that policy, rather than reiterate policy principles?
- Is the policy clearly written and easy to understand?

3.4 Policy wording

29. The Government's Planning Practice Guidance¹⁵ states:

“A policy in a neighbourhood plan 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 for which it has been prepared.”

30. Precise wording of policies is, broadly speaking, considered a matter more for the neighbourhood group itself than for AECOM, based not only on the conclusions and recommendations of this report, but also taking into account feedback from other relevant stakeholders, including the LPA.

31. Nevertheless, in cases where minor changes to policy wording may have the effect of increasing soundness and robustness, we have set out any changes we recommend (which, as with all our conclusions and recommendations, comprise non-binding advice).

32. Where we consider significant re-drafting of policy wording is required, we have signposted useful toolkits and Examiners' comments. See Appendix 4.

33. We have undertaken a review of the evidence available to support the draft policies emerging in the documentation sent to AECOM by the Neighbourhood Forum. From this, we have identified any gaps within the evidence base

¹⁴ For further information on the basic conditions, please see 'How to write a basic conditions statement available' here: <https://mycommunity.org.uk/wp-content/uploads/2016/08/How-to-write-a-basic-conditions-statement.pdf>

¹⁵ Paragraph: 041 Reference ID: 41-041-20140306, available online at <https://www.gov.uk/guidance/neighbourhood-planning--2>

gathered to date by the Forum and also provided comment on future work or actions needed to ensure a robust policy approach.

3.5 About Appendix 1

34. Appendix 1 is our detailed review of each policy using the methodology described above which considers the draft policies alongside the policies of the adopted Local Plan and the NPPF, and evidence at both Whitburn and South Tyneside level. It aims to provide an answer to the questions raised above. Recommendations are provided in terms of actions the Neighbourhood Forum should take in terms of further evidence gathering and/or policy development.

35. The column headings in the Appendix 1 table can be explained as follows:

- **Policy name, number and theme:** The policy name and number as it appears in the Draft Plan. Wherever possible, policies are grouped into themes;
- **Policy intent:** This column summarises the policy intent and as such is almost always the policy text as it was provided to AECOM;
- **Evidence source and type:** This column identifies and checks the source of evidence and whether it is technical evidence or based on local surveys and engagement;
- **Evidence analysis:** This column analyses whether the evidence has been appropriately analysed and reasonable conclusions drawn;
- **Proportionality and gaps:** This column indicates, in AECOM's view, whether the evidence is proportionate and where further potentially useful evidence in support of the policy, theme or objective could be found and referenced;
- **Effectiveness of the policy:** This column analyses whether the evidence is clearly written, easy to understand and implementable;
- **Conformity:** This column provides AECOM's assessment of the extent to which the policy conforms with the relevant policies or provisions of the South Tyneside Local Plan, the NPPF and/or the local plan and Whitburn evidence base as well as with human rights and European law; and
- **Conclusion and recommendations:** This column summarises our thoughts on the policy and outlines our overall recommendations for any necessary changes to policy or evidence, including whether specific issues need to be discussed with third parties to develop the policy further (e.g. STC). If we consider that a policy should be deleted entirely, for example because it duplicates Local Plan policy, we state this here.

3.6 About Appendix 2

36. Appendix 2 lists policies in 'made' (i.e. adopted) neighbourhood plans from across England that are relevant to some of the policies that have been assessed at Whitburn. The value of assessing a 'made' plan policy is that it has passed Examination and thus must be in full conformity with the basic conditions of neighbourhood planning.

37. In most cases, the examples of policies from 'made' plans have been taken from those where AECOM advised the group, but in cases where a relevant policy can only be found in a 'made' plan that AECOM had no involvement in, the policy has been quoted nonetheless.
38. If any of the policy examples in Appendix 2 are considered of particular interest or relevance, then it may be helpful to review the relevant neighbourhood plan Examiner's Report, which should in every case be available online (if it is not, contact the relevant Local Authority). The Examiner's Report may show how and why the policy in question was amended to conform with the Basic Conditions, unless the draft policy was considered to meet the Basic Conditions without amendment.

3.7 About Appendix 3

39. Appendix 3 briefly sets out further information on neighbourhood plan policy drafting, including links to resources that may be helpful in this regard.

4. Conclusions and Recommendations

4.1 General findings

40. Neighbourhood plan policies should not repeat existing national and local planning policies. In a robust neighbourhood plan, neighbourhood policies either increase the effectiveness and/or specificity of local plan policies (i.e. by adding local criteria and/or taking local context into account) or propose a policy where there was previously a policy void.
41. Where WNF supports STC's existing policy approach this can simply be referenced in supporting text rather than comprising a policy in its own right. Developing measurable metrics (targets or indicators) to monitor effects of implementation is another way of ensuring the neighbourhood plan can add value over and above local and national policies.
42. All evidence that WNF relies on in developing its planning policies should be properly documented within the Neighbourhood Plan. The supporting text to each policy must refer to the evidence base used to inform that policy approach, summarising the key points which will help demonstrate how robust the policy is. The supporting text, which should stand alone from and be more clearly differentiated from the policy text itself, should explain why the policy is required and signpost the reader to the plan's evidence base where they can find additional information.
43. Supporting text should also reference higher-level evidence and policy, for example from the South Tyneside Plan and/or its evidence base documents and policies, as this will help support the policies and provide further justification.
44. In certain cases, additional evidence work may be required to enhance the robustness of policies. As a general rule, the more a policy departs from or goes beyond the local plan (e.g. in terms of standards), the more evidence is required. It is recommended that the Neighbourhood Forum conducts a further check of its draft final policies to ensure they are adding value to the Local Plan and are locally specific to the neighbourhood. Ideally this should be done with the LPA's Neighbourhood Planning Officer.

4.2 Headline summary of policy specific findings (full details in Appendix 1)

4.2.1 WNP13: Sewage and Drainage Infrastructure

45. The current policy and its supporting evidence at present are too long and complex. The supporting evidence contains much that is not directly relevant to a neighbourhood plan policy and, while it should be retained to support the Forum's wider campaign for improved wastewater treatment and water quality locally, it should not be badged as supporting WNP13 specifically. Rather, text within it that is relevant to the policy should be merged into the existing supporting text so the supporting text is all in one place.
46. At the same time, the rest of the supporting text should be entirely rewritten to support the amended policy, shifting its focus from the responsibilities of parties other than developers toward requirements for developers only, referencing

national and local policy and evidence as appropriate. One or more community projects within the neighbourhood plan could include measures and aspirations that it is not possible to state in the policy itself. The policy should be thought of as one smaller element in the Forum's wider strategy of addressing this topic, rather than forming the main or the only way to address it.

47. There are many elements of the existing policy that would mean it fails the Basic Conditions of neighbourhood planning, and its length and complexity would also hamper policy effectiveness as it would be difficult for developers and development managers to use or apply. Taking all of AECOM's numerous recommendations together, therefore, it is recommended that the policy be redrafted along the following lines:

'The net increase in wastewater generation should be considered as appropriate in new development, as well as the impact the development may have elsewhere in the sewage and drainage network. Development will be supported where it is demonstrated that its surface water drainage will not add to existing site runoff or cause any adverse impact to neighbouring properties and the surrounding environment.

Developers are required to consult as appropriate with the relevant water authority on sewage and drainage infrastructure, including on any Section 104 requirements. Developers are strongly encouraged to commence pre-application discussions with the water authority at the earliest possible opportunity, and the Forum will seek evidence from developers that such engagement has taken place in cases where it is required. Planning proposals will not be supported unless it can be shown by rigorous analysis that there is sufficient capacity in the local sewerage system and that any new connections will not increase the risk of system back up/flooding.

All development is encouraged to incorporate Sustainable Urban Drainage (SuDS), with run-off rates no greater than greenfield sites and designed, where possible, to contribute towards the landscaping and biodiversity of the development and with provision made for future maintenance. The hierarchy of discharge option preference is:

- 1. Soakaway or other infiltration system;*
- 2. Discharge into a watercourse;*
- 3. Discharge to surface water sewer;*
- 4. Discharge to combined sewer.*

Proposals which allow surface water drainage into the combined sewer system will only be supported if the developer can demonstrate that the proposal is unable to make proper provision for surface water drainage to ground, watercourses or surface water sewers.

For major new developments the Lead Local Flood Authority is to be consulted in relation to surface water. 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.'

4.2.2 WNP15: Air Quality

48. Footnotes and cross-references to relevant evidence (including WNP Appendix D) and adopted/emerging national and local policy should be added to the supporting text. Additionally, it should be made clear that only emissions from traffic and not from other sources have been gathered as evidence.
49. The evidence in the Air Quality Assessment Version 2 shows that it is likely that traffic through Whitburn contributes to poorer air quality within 200 metres of main roads, but that is, scientifically and in terms of policy, about the only conclusion that can be stated without further detailed evidence gathering (which is not recommended).
50. The presentation of the diffusion tube data could be improved. The data should be presented with the annual mean for each year, and the bias adjustment method stated.
51. The policy states that new development should be Air Quality Neutral (AQN) but this is a policy/methodology specific to London, so cannot be applied in Whitburn because the benchmarking would be inaccurate. An alternative and more suitable approach is calculation of the 'damage cost' of the development, but the emerging South Tyneside Local Plan does not require this and the only AQMAs in South Tyneside are outside the neighbourhood plan area. As such, requiring developers to provide a more comprehensive assessment of air quality in Whitburn could be vulnerable to challenge; this assessment is made on the basis of the constraints applying to neighbourhood plan policy rather than the merits or otherwise of requiring assessment. Rather, assessment could perhaps be encouraged for all development within 200 metres of main roads (as opposed to major development anywhere in the plan area), because the evidence gathered suggests this is where it is most needed.
52. Requiring an indoor air quality assessment for major development in an area that is not substantially above the ambient air quality objectives or within an AQMA will be difficult to justify. However, importantly, indoor air quality assessments are part of BREEAM, and it is therefore recommended that either this policy (or other relevant neighbourhood plan policies, e.g. on development design) be amended to require buildings to meet BREEAM standards (or their successor) for this reason. While there is no guarantee that a requirement for BREEAM would be accepted by the Examiner, the worst that can happen is that he or she would downgrade it to encouragement, which is better than not referencing BREEAM at all.
53. References in the policy and supporting text to EU air quality objectives should be updated post-Brexit.
54. If the recommendations set out above were implemented the policy would become easier to understand and apply and therefore as effective as it is possible to be within the relevant applicable evidence and policy constraints.
55. Subject to the amendments recommended above, the policy should be in conformity with national and adopted/emerging local policy, but without duplicating or restating their requirements.

4.3 Recommendations for next steps

56. This neighbourhood plan evidence base and policy review has aimed to provide WNF with recommendations on policy and evidence for Whitburn Neighbourhood Plan. We recommend that the Neighbourhood Forum should, as a next step, implement the recommended changes to finalise draft policies, at which point it can be resubmitted to STC for informal/unofficial comment in advance of formal submission.

Appendix 1: Detailed policy and evidence review¹⁶

¹⁶ Note: For clarity, policies are reviewed in alphabetical order of policy identifier/number, which is not necessarily the same order in which they appear in the plan.

Policy name and number	WNP13: Sewage and Drainage Infrastructure
Policy intent as provided to AECOM	<p>Developers need to consider the net increase in water and waste water demand to serve their developments and also any impact the development may have off site further down the network to avoid negative consequences. Due to capacity issues at the Hendon waste-water treatment works , new development will not be permitted unless there is an independent and verifiable planning assessment demonstrating that there is adequate sewage and surface water drainage infrastructure to serve the development. The assessment must demonstrate that the proposed development would not lead to harm to local watercourses or the coastal waters or foreshore of the Whitburn Neighbourhood area by way of sewage and other pollution, or problems for existing residents or residents subsequently occupying the development. The planning assessment will consider treatment and dry weather flow capacity versus consents. It will consider if the net increase in waste water will be adequately treated in compliance with urban waste water treatment regulations. Where the Sewage Treatment Works are close to capacity, the LPA will look at potential for phased development and use a Grampian condition to ensure development comes forward in line with upgrade. Development will be permitted where it is demonstrated that surface water drainage will not add to the existing site runoff or cause any adverse impact to neighbouring properties and the surrounding environment. Unless it can be shown to be unnecessary, sites should incorporate Sustainable Urban Drainage (SuDS), with run-off rates no greater than greenfield sites. SuDS, where possible, should be designed so as to contribute towards the landscaping and biodiversity of the sites and provision should be made for their future maintenance. The hierarchy of preference is:</p> <ol style="list-style-type: none">1. Soakaway or other infiltration system2. Discharge into a watercourse3. Surface water sewer4. Combined sewer <p>Proposals which allow surface water drainage into the sewer system will not be permitted unless the developer can demonstrate how the proposal is unable to make proper provision for surface water drainage to ground, water courses or surface water sewer. Whenever there is a proposed discharge to sewer it would be expected that formal agreement for a discharge rate would be provided by Northumbrian Water. For major new developments the Lead Local Flood Authority is to be consulted in relation to surface water.</p>

	<p>All development plans must include an assessment proving that that the development is nitrate neutral to comply with The Conservation of Natural Habitats and Species Regulations 2017 (as amended) (the ‘Habitats Regulations’) and CJE cases C-293/17 and C-294/17.</p>
<p>Evidence source and type</p>	<p>a) Referenced in supporting text to policy</p> <ul style="list-style-type: none">• Urban Wastewater Treatment Regulations 1994¹⁷;• Environment Agency (EA) consent 245/1207¹⁸;• European Union (EU) Urban Waste Water Treatment Directive 1991 (91/271/EEC)¹⁹;• European Court of Judgement (ECJ) Case C-301/10: Failure of a Member State to fulfil obligations - Pollution and nuisance - Urban waste water treatment²⁰; and• PPG on water supply, wastewater and water quality.²¹ <p>b) Referenced in WNP Appendix D:</p> <ul style="list-style-type: none">• 2020 Rainfall and Long Sea Outfall Discharge Data (December 2020), WNF²² <p>c) Additional sources referenced in Wastewater and Sewerage Infrastructure policy support document (December 2020), WNF²³:</p> <ul style="list-style-type: none">• NPPF paragraphs 91, 170 (e), 180 and 181;• Town and Country Planning (Development Management Procedure) (England) Order 2015²⁴;

¹⁷ Available at <https://www.legislation.gov.uk/ukxi/1994/2841/contents/made>

¹⁸ This and subsequently referenced consents not themselves available online but see <https://www.gov.uk/government/publications/water-companies-environmental-permits-for-storm-overflows-and-emergency-overflows/water-companies-environmental-permits-for-storm-overflows-and-emergency-overflows> for relevant information

¹⁹ Available at https://ec.europa.eu/environment/water/water-urbanwaste/legislation/directive_en.htm

²⁰ Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62010CJ0301>

²¹ Available at <https://www.gov.uk/guidance/water-supply-wastewater-and-water-quality>

²² Available at https://www.whitburnforum.co.uk/uploads/1/0/1/0/101048798/2020_rainfall_and_iso_discharge_data.pdf

²³ Available at https://www.whitburnforum.co.uk/uploads/1/0/1/0/101048798/wastewater_and_sewerage_infrastructure_policy.pdf, although now superseded by an April 2021 version made available by WNF to AECOM but not currently on the WNF website. There are multiple further references within the footnotes of this document that it would not be proportionate to list above.

²⁴ Available at <https://www.legislation.gov.uk/ukxi/2015/595/contents/made>

- Barratt Homes Limited v Dwr Cymru Cyfyngedig (Welsh Water) [2009] UKSC136²⁵
- Legal opinion²⁶
- Sunderland Council Beach Reports²⁷
- Public Health (Control of Disease) Act 1984²⁸
- Health Protection (Notification) Regulations 2010²⁹
- Health and Social Care Act 2012³⁰
- EU Bathing Water Directive 2006/7/EC³¹
- EA water samples history at Marsden, Seaburn, Sunderland and South Shields³²

Evidence analysis

Firstly, commentary on the supporting text within the plan document itself is that much evidence is presented without footnote references as to source. Footnotes should be added so it is much clearer which statements come from which evidence documents. The supporting text also refers to National Planning Policy Guidance- this should be replaced with 'national Planning Practice Guidance (PPG)'. References need to be added to relevant South Tyneside policies as a context for the Whitburn policy, specifically adopted Core Strategy 2007 policies ST2 Sustainable Urban Living (clause d), EA5 Environmental Protection, EA6 Planning for Waste (clause c) and emerging Local Plan policies NE6: Flood Risk and Water Management and NE7: Protecting Water Quality. References to and appropriate discussion of South Tyneside-level evidence insofar as it is relevant to the recommended revised policy (see below) would also be appropriate to add to the policy supporting text; this

²⁵ Available at <https://www.supremecourt.uk/cases/uksc-2009-0038.html>

²⁶ Provided by Landmark Chambers in the matter of sewage pollution in South Tyneside (February 2021, forming Annex B of the Supporting Document.

²⁷ Not available online.

²⁸ Available at <https://www.legislation.gov.uk/ukpga/1984/22>

²⁹ Available at <https://www.legislation.gov.uk/uksi/2010/659/contents/made>

³⁰ Available at <https://www.legislation.gov.uk/ukpga/2012/7/contents/enacted>

³¹ Available at <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:064:0037:0051:EN:PDF>

³² Available at <https://environment.data.gov.uk/bwq/profiles/data-samples.html?bw=ukc2204-05400,ukc230%200-05500,ukc2204-05300>

includes South Tyneside's Surface Water Management Plan (SWMP)³³, Flood and Coastal Risk Management Strategy³⁴, Strategic Flood Risk Assessment (SFRA)³⁵ and Preliminary Flood Risk Assessment (PFRA).³⁶

Secondly, commentary on the Wastewater and Sewerage Infrastructure Policy Support document: The Forum should note that this document, as currently titled and worded, unfortunately risks being more of a hindrance than a help to getting policy WNP13 adopted in the neighbourhood plan. While 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 (see detailed comments in Proportionality and Gaps section below, and see also recommendation for community project in 'effectiveness' section below). 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.

In this context, any document titled/badged as supporting WNP13 should be stripped down to only that evidence specifically relevant to informing the policy text itself, noting that the case law, legal advice and legislation cited, compelling though it is, applies only to the duties of LPAs (as articulated through Local Plans) and statutory undertakers (as articulated through their strategic plans), and has no relationship with neighbourhood planning. In fact, 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.³⁷ These points could and should be added/merged into

³³ Available at <https://www.southtyneside.gov.uk/article/36339/Flood-risk-management>

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid.

³⁷ In its comments on the draft of this EBPD, WNF correctly pointed out that the ECJ case is specific only to Whitburn and the River Thames in London and thus comprises important evidence for the Forum to retain. The Forum also noted that pollution recognises no

the supporting text within the Plan document itself (having all supporting text in one place, and ensuring that supporting text is limited to national and local policy and relevant evidence from the plan area itself, would aid the understanding of developers, development managers, the Examiner and other Plan users, thus making the policy more effective). 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.

Proportionality and gaps

Throughout, the policy, including its title, should use consistent terminology. Either sewage or wastewater is fine to use, as long as it is used throughout. In AECOM's comments, we have used the term 'wastewater' (noting that in the industry, a single word is preferred rather than 'waste water'. Likewise, throughout the policy and its supporting text, either wastewater treatment works (WwTW) or sewage treatment works (STW) should be used, but not both.

As an important overarching point, the policy can only set requirements of developers- it cannot set requirements (or second guess the intentions) of the LPA and or Northumbrian Water, and it cannot require developers or their advisors to carry out the duties of the LPA and Northumbrian Water. This means that the text starting 'Where the Sewage Treatment Works are close to capacity....' and ending 'flows from the proposed development have been completed' should be deleted (otherwise STC will require such deletion themselves) because it is the LPA that decide when or if to apply Grampian conditions, and Northumbrian Water who have to decide whether or not Hendon is close to capacity, on a case-by-case basis as development comes forward in Whitburn and elsewhere in its catchment area, in line with appropriate legislation and guidance governing the sector. Likewise, this means that the requirement for an 'independent and verifiable planning assessment demonstrating that there is

boundaries and thus reference to pollution from outside the neighbourhood plan area should be retained as well. AECOM agrees with both of these points in principle but again would point out that neither are directly relevant *for the purposes of neighbourhood plan policy*, which is why it is recommended that it not be mentioned in the policy supporting text. Reference to both issues would, however, be highly relevant in the supporting text for any community project on water quality improvement, which covers actions that cannot be covered in the much more constrained policy text itself.

adequate sewage and surface water drainage to serve the development’, and all text describing the required contents of that assessment, needs to be deleted. The assessment would be disproportionate as all of this is already Northumbrian Water’s legal responsibility, and this cannot be over-ridden by neighbourhood plan policy. The text ‘Whenever there is a proposed discharge to sewer it would be expected that formal agreement for a discharge rate would be provided by Northumbrian Water’ also needs to be removed for the reasons above.

On similar grounds, the text ‘Due to capacity issues at the Hendon waste-water treatment works’ should be removed. Any other references to Hendon should also be removed from the policy for the obvious reason that the more the policy mentions locations outside the neighbourhood plan area that the Forum has no direct power to control, the more likely either South Tyneside or the Examiner is to delete or significantly amend the text as it increases the risk of failing the Basic Conditions.

Rather, the revised policy text should make it clear that developers are required to consult as appropriate with Northumbrian Water³⁸, including on any section 104 requirements.³⁹ The emphasis should be on early engagement with Northumbrian Water for pre-planning advice, and on providing evidence that this consultation and assessment has taken place. In their comments on the draft of this document, the Forum correctly pointed out that made policies on this topic require, over and above such consultation, ‘rigorous analysis’ of network capacity and it is agreed that including text to this effect would make for the strongest possible policy. This is set out in the Conclusion and Recommendations section below.

³⁸ In the policy text itself, it would be safer to refer to Northumbrian Water simply as ‘the relevant water authority’ to account for e.g. corporate name changes or franchising decisions during the Plan period.

³⁹ Section 104 of the Water Industry Act 1991 (at <https://www.legislation.gov.uk/ukpga/1991/56/contents>) provides a mechanism for newly-constructed private sewers and pumping stations to be ‘adopted’ by the water authority, who will then maintain them at their own expense. A developer may make pre-application enquiries with the water authority to confirm ownership of assets on completion and during the design phase to satisfy planning conditions. If Section 104 is referred to in the policy text as we recommend, then it should be explained in the supporting text. See also <https://www.water.org.uk/wp-content/uploads/2020/02/SSG-App-B-Procedures-v1-251019.pdf>

To maintain an appropriate and relevant focus on Hendon as the destination for Whitburn's current and future wastewater, and to reflect the evidence of compliance issues gathered⁴⁰, it could still be mentioned in any/all of the following places: a) the supporting text to WNP 13, b) in one or more proposed new community projects covering the wider campaign, and/or c) the supporting text to the one or more proposed new community projects.

The first paragraph of the policy should be reworded to avoid inferring there is 'demand' for wastewater; clearly, while there is demand for water supply, there is no demand for wastewater, only the infrastructure required to manage it. The sentence should therefore refer to net increase in wastewater *generation*. Staying in the first paragraph, the first part of the text is about 'net increase in water....demand' but the remainder of the policy only covers wastewater. Whilst the two are linked (obviously, demand for water supply increases wastewater generation) the policy should avoid starting by stating a need to consider net increase in water demand but then set no policy requirements on the topic in the rest of the text.

The requirement for all development to need SuDS is problematic because it is not supported by specific local evidence of need. As the Forum will be aware, major development is required by national policy to incorporate SuDS, but other development is not. If the South Tyneside SWMP indicated that Whitburn is a specific hotspot for surface flooding, this could be acceptable evidence supporting this requirement, but SWMP Appendix C: Hot Spot Overview indicates that it is not. As such, it seems unlikely that evidence could be generated supporting SuDS as a requirement for all development and thus it is recommended that the wording be changed to 'encourage' or 'support' SuDs for all development.

The numbered hierarchy of preference should be more clearly labelled/described as a hierarchy of *discharge option* preference- in the same way, both points 3 and 4 should have 'Discharge to' inserted before their text. While the hierarchy of preference risks restating emerging South Tyneside policy NE6's own hierarchy (see

⁴⁰ Whilst Annex D of the Supporting Document on spill duration at Hendon shows that the overflow in question indeed discharges, this is not in itself proof that the overflow is performing outside of its legal consent, depending on consent conditions. Further analysis of consent conditions against recorded data would be required to ascertain if spills are out of consent. As the Forum is likely aware, Northumbrian Water has a duty to report any spills which do not conform to the consent conditions as a pollution incident to the Environment Agency.

SuDS section, clause b)), as this is not yet adopted policy this is not a problem. In the unlikely event that policy NE6 (and the rest of the South Tyneside Local Plan) is adopted before the Whitburn Neighbourhood Plan, however, this means the hierarchy can be deleted from WNP13 as it would restate Local Plan policy (albeit in slightly different words), which is to be avoided as it will be confusing for developers and development managers and hence hamper policy effectiveness.

In the sentence starting 'proposals which allow surface water drainage...', the phrase 'sewer system' should be preceded by the word 'combined'. Otherwise, there is an inadvertent inference that discharge to a surface water-only sewer would be acceptable, which was presumably not the intention. Later in the same sentence, the term 'watercourses' (i.e. a single word) is the normal industry preference.

The text 'for major new developments the Lead Local Flood Authority is to be consulted in relation to surface water.' is appropriate and should be retained. To further encourage development of SuDS systems that can remove surface water from the CSO, it would be beneficial to add text here requiring development applications to have appropriate regard to the local flood risk and surface water management evidence.

We recommend that the final paragraph on nitrate neutrality be deleted. It is suitable only for a strategic policy at Local Plan level rather than a (non-strategic) neighbourhood plan policy. Natural England have increased the focus recently on the issue of nitrates resulting in eutrophic and/or failing coastal/tidal Special Areas of Conservation (SACs), Ramsar sites and Special Protection Areas (SPAs), and this is why the issue may not be covered in emerging South Tyneside policy or those of other LPA Plans in the Hendon catchment area. Natural England have been clear that nitrate neutrality should be delivered either on a site-by-site basis for strategic allocations or at an LPA scale (or sub-regionally if LPAs come together).

The strategic approach taken to nitrate neutrality reflects the fact that this is a significant burden for developers-under Natural England guidelines they are essentially required to have agricultural land taken out of production to offset increases in nitrate in wastewater; Natural England do not accept nitrate removal at treatment point. Based on AECOM's knowledge and experience of the issue, this all strongly indicates that nitrate neutrality is not a suitable topic for (non-strategic) neighbourhood plan policy. The Forum could, however, contact Natural England's Northumbria regional office if it wishes to confirm this assessment. Again, this conclusion does not

	<p>affect the ability of the Forum to maintain a comprehensive effort to ensure South Tyneside and other relevant LPAs begin to address nitrate neutrality in their plans and decisions, but in line with previous advice this should be done in parallel with/alongside neighbourhood plan policy, potentially as a community project, rather than within policy.</p> <p>As a general point, wherever possible, the language used in policies should be positive rather than negative- for example, amending phrases such as ‘new development will not be permitted unless...’ to ‘new development will be permitted subject to...’, and so on.</p>
Effectiveness of policy	<p>As an overarching comment, the policy is very long, complex and detailed, and sets unachievable requirements. This would the current text hard to use, interpret and apply, and hence ineffective. However, if all recommendations and amendments advised by AECOM are implemented, the policy will become shorter and less complex, and its requirements proportionate and achievable. This will help it be more effective as it can be implemented more easily- it is also significantly less likely to have unintended effects as a result.</p> <p>Currently, in the supporting text to the policy, there is no clear outline as to the role of the Lead Local Flood Authority (LLFA) or the EA. Adding these would make developer requirements clearer and hence the policy would be more likely to have the effects desired. The supporting text should therefore state that approval from the LLFA is required for drainage designs for surface water, that SuDS are required by national policy for major development, and that EA consents would need to be applied for if new outfalls to ordinary watercourses are proposed. It should also state that the EA will likely require consultation and possibly permits applied for if new outfalls to main rivers are proposed.</p> <p>The most effective the neighbourhood plan can be on this topic as a whole is a) for the policy text to be amended as suggested above and below, b) for the supporting text to be reshaped along the lines suggested and c) for one or more appropriate community projects included within the plan covering all relevant elements of the campaign that cannot be required in WNP13 itself for the reasons stated in this assessment.</p>
Conformity check	<p>The current text would be deemed out of conformity with both national and local policy, and hence would fail the Basic Conditions of neighbourhood planning. However, if all recommendations set out above were applied in full,</p>

	<p>the policy would have a much stronger chance of passing the Basic Conditions at examination on the basis of conformity with relevant national and local policy.</p>
<p>Conclusion and recommendations</p>	<p>The current policy and its supporting evidence at present are too long and complex. The supporting evidence contains much that is not directly relevant to a neighbourhood plan policy and, while it should be retained to support the Forum’s wider campaign for improved wastewater treatment and water quality locally, it should not be badged as supporting WNP13 specifically. Rather, text within it that is relevant to the policy should be merged into the existing supporting text so the supporting text is all in one place. At the same time, the rest of the supporting text should be entirely rewritten to support the amended policy, shifting its focus from the responsibilities of parties other than developers toward requirements for developers only, referencing national and local policy and evidence as appropriate. One or more community projects within the neighbourhood plan could include measures and aspirations that it is not possible to state in the policy itself. The policy should be thought of as one smaller element in the Forum’s wider strategy of addressing this topic, rather than forming the main or the only way to address it.</p> <p>There are many elements of the existing policy that would mean it fails the Basic Conditions of neighbourhood planning, and its length and complexity would also hamper policy effectiveness as it would be difficult for developers and development managers to use or apply. Taking all of AECOM’s numerous recommendations⁴¹ together, therefore, it is recommended that the policy be redrafted along the following lines:</p> <p><i>‘The net increase in wastewater generation should be considered as appropriate in new development, as well as the impact the development may have elsewhere in the sewage and drainage network. Development will be supported where it is demonstrated that its surface water drainage will not add to existing site runoff or cause any adverse impact to neighbouring properties and the surrounding environment.</i></p> <p><i>Developers are required to consult as appropriate with the relevant water authority on sewage and drainage infrastructure, including on any Section 104 requirements. Developers are strongly encouraged to commence pre-application discussions with the water authority at the earliest possible opportunity, and the Forum will seek evidence from developers that such engagement has taken place in cases where it is required. Planning proposals will not be supported unless it can be shown by rigorous analysis that there is sufficient capacity in the local sewerage system and that any new connections will not increase the risk of system back up/flooding.</i></p>

⁴¹ To keep the conclusion simple and understandable, the reasons for each conclusion are not reiterated here, but can be reviewed in detail within the relevant row of the policy assessment table.

	<p><i>All development is encouraged to incorporate Sustainable Urban Drainage (SuDS), with run-off rates no greater than greenfield sites and designed, where possible, to contribute towards the landscaping and biodiversity of the development and with provision made for future maintenance. The hierarchy of discharge option preference is:</i></p> <ol style="list-style-type: none"> <i>1. Soakaway or other infiltration system;</i> <i>2. Discharge into a watercourse;</i> <i>3. Discharge to surface water sewer;</i> <i>4. Discharge to combined sewer.</i> <p><i>Proposals which allow surface water drainage into the combined sewer system will only be supported if the developer can demonstrate that the proposal is unable to make proper provision for surface water drainage to ground, watercourses or surface water sewers.</i></p> <p><i>For major new developments the Lead Local Flood Authority is to be consulted in relation to surface water. 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.’</i></p>
<p>Policy name and number</p>	<p>WNP15: Air Quality</p>
<p>Policy intent as provided to AECOM</p>	<p>Development should comply at least with all minimum EU or UK environmental requirements in relation to air pollutants, whichever is the more stringent. All development must aim to be at least ‘air quality neutral’ and not cause or contribute to worsening air quality. On major development this should be demonstrated through an air quality assessment and, if necessary, proposed mitigation measures. Major development must demonstrate that it is designed to ensure that indoor air quality complies with the latest WHO guidelines for short and long term air quality including particulate matter (PM2.5 and PM10), nitrogen dioxide (NO2), carbon monoxide (CO), formaldehyde and volatile organic compounds (VOCs). Carbon dioxide (CO2) concentrations in indoor air should also be considered.</p>
<p>Evidence source and type</p>	<p>a) Referenced in supporting text to policy Data from NO₂ diffusion tube located within neighbourhood plan area (on A183 at Jolly Sailor public house) b) Referenced in WNP Appendix D:</p>

	Air quality assessment (Version 2, April 2021), WNF ⁴²
Evidence analysis	<p>There is much evidence in the supporting text that is presented without footnote references as to source. Footnotes should be added so it is much clearer which statements come from which evidence documents.</p> <p>The supporting text does not cross-reference to WNP Appendix D but could do so.</p> <p>The Air Quality Assessment Version 2 (April 2021) evidence base document is well-written and a comprehensive outline of the context for the issue. However, much of the text covers air quality in general. The only Whitburn-specific evidence it contains (noting that it is Whitburn-specific evidence that is most needed to support any policy looking to go further than current South Tyneside policy) is the NO₂ monitoring data from the Jolly Sailor PH, the automated traffic counter data, the deaths from respiratory diseases by South Tyneside ward, as well as local hospital admissions. The latter two, quite correctly, are caveated to the extent that not all hospital admissions and deaths from these causes may be linked to air pollution. It could be worth noting that the area's former mining heritage, for example, could have a long-term impact on local rates of respiratory diseases. However, these caveats do restrict the extent to which this data can support the policy.</p> <p>The evidence in the document shows that it is likely that traffic through Whitburn contributes to poorer air quality within 200 metres of main roads, but that is, scientifically and in terms of policy, about the only conclusion that can be stated without further detailed evidence gathering (which is not recommended in terms of time, resource and proportionality). Recommendations for appropriate policy wording on the basis of the evidence presented is, however, set out below.</p> <p>Turning to the draft neighbourhood plan itself, the supporting text states (paragraph 6.65) "Our clean air policy aims to further reduce harmful emissions from industry, traffic, energy plants and agriculture in the Whitburn Neighbourhood Area...". However, the policy wording is not specific to emission type and the evidence gathered appears to relate only to traffic emissions rather than those from other sources. If it is not possible to gather evidence on emissions in the neighbourhood plan area from industry, energy plants and agriculture (and it probably is not possible) this is not a problem as long as paragraph 6.65 is reworded so as not to infer that data on emissions from sources other than traffic has been gathered/monitored.</p> <p>The laboratory used for the diffusion tube analysis should be referenced in a footnote to supporting text.</p>

⁴² Provided to AECOM but not currently on WNF website.

The presentation of the diffusion tube data could be improved. The relevant objective is the annual mean, but this is not made clear. The average values for each month across the years reported are less relevant than the annual mean for each year, and the bias adjustment method⁴³ should be stated.

Evidence should be provided for the assertion that NO₂ is higher in winter months (for example, the supporting text could quote paragraph 319 of the Nitrogen Dioxide in the UK report produced by Defra's Air Quality Expert Group⁴⁴).

In paragraph 6.67 the source/reference for the legal limit value of an annual average of 40µg/m³ for NO₂ should be footnoted.

Reference should also be made in the supporting text to adopted South Tyneside Core Strategy Policy EA5 and emerging Local Plan Policy NE10, as well as to NPPF paragraph 181, as all of these form important context for the policy.

Proportionality and gaps

The policy states that new development should be Air Quality Neutral (AQN). However, this is a policy/methodology specific to London (emission factors and trip lengths are based on analysis of London data). As such AQN cannot be applied in Whitburn because the benchmarking would be inaccurate. An alternative and more suitable approach which has been adopted by many local authorities is calculation of the 'damage cost' of the development, and a requirement for this value of additional mitigation to be incorporated into the design. This is the approach of the Air Quality and Emissions Mitigation Guidance for Sussex (2019)⁴⁵, and it is recommended that the Forum reviews this document to understand how this approach is applied in practice. However, the

⁴³ Diffusion tubes are a low-cost method for indicative monitoring of ambient nitrogen dioxide (NO₂) concentrations. However, they are affected by several sources of interference which can cause substantial under- or over-estimation of concentration (often referred to as 'bias') compared to the chemiluminescent analyser (defined within Europe as the reference method). Clearly, any such bias is a problem in any situation where diffusion tube results are to be compared with air quality objectives. As a result, those using NO₂ diffusion tubes are required to quantify the bias of their diffusion tube measurements and apply an appropriate bias adjustment factor to the annual mean if required.

⁴⁴ Available at <https://uk-air.defra.gov.uk/library/assets/documents/reports/ageg/chapter3.pdf>

⁴⁵ Available at https://sussex-air.net/Reports/Sussex_AQ_Guidance_2019.pdf

Forum should note that the emerging South Tyneside Local Plan does not require a damage cost calculation and there is no evidence that air quality in Whitburn is worse than the rest of the South Tyneside area (indeed, quite the reverse as the only Air Quality Management Areas (AQMA) in South Tyneside are outside the neighbourhood plan area). AECOM is also not aware of any made neighbourhood plans in England that incorporate the concept of 'damage cost'.

On this basis, requiring developers to provide a more comprehensive assessment of air quality in Whitburn compared with the rest of the area is likely to be difficult to justify, unlikely to be agreed to by STC, and thus vulnerable to developer challenge; this assessment is made on the basis on neighbourhood plan precedent and does not infer that air quality is not a serious issue needing to be addressed. However, given the limitations that apply to neighbourhood plan policy, it could perhaps be encouraged for all development within 200 metres of main roads (as opposed to major development anywhere in the plan area), because the evidence gathered suggests this is where it is most needed.

Requiring an indoor air quality assessment for major development in an area that is not substantially above the ambient air quality objectives or within an AQMA will be difficult to justify.⁴⁶ A more proportionate approach would be to require or encourage mechanical ventilation or NOx filtration if developments are proposed in areas above relevant air quality objectives or within 200 metres of main roads. However, importantly, indoor air quality assessments are part of the Building Research Establishment's Environmental Assessment Method (BREEAM)⁴⁷, and it is therefore recommended that either this policy (or other relevant neighbourhood plan policies, e.g. on development design) be amended to require buildings to meet BREEAM standards (or their successor)⁴⁸ for this reason. There one precedent that AECOM is aware of for a neighbourhood plan requiring the BREEAM Quality Mark Standard⁴⁹ to be met for all new development- this is Hankelow Neighbourhood Plan

⁴⁶ AECOM is aware that Knightsbridge Neighbourhood Plan is a pioneer in terms of indoor air quality policy, but their policy will have been based on locally-specific evidence, including that the entire neighbourhood plan area is a small part of the largest AQMA in England. The neighbourhood plan is available at <https://www.westminster.gov.uk/media/document/knightsbridge-neighbourhood-plan-adoption-version>.

⁴⁷ See www.breeam.com

⁴⁸ This text should be used to 'future-proof' the policy, i.e. it is possible that BREEAM may be superseded in future.

⁴⁹ See <https://www.homequalitymark.com/>

	<p>(Cheshire East) policy DC1 (Design) part (h). However, Hankelow is rare⁵⁰- and neighbourhood plan examiners across the country are not always consistent. Neighbourhood plans simply encouraging or supporting rather than requiring BREEAM assessment (which will not be as effective but is better than not mentioning BREEAM at all) are much more common (for example, Hailsham in Wealden, Long Ashton in North Somerset, Isle of Dogs in Tower Hamlets, Knightsbridge in Westminster, Coggeshall in Braintree and others). Given the Hankelow precedent, however, it seems at least worth testing if a BREEAM <u>requirement</u> would be accepted by the Examiner- the worst that can happen is that he or she would downgrade it to <u>encouragement</u>.</p> <p>At the current time EU and UK air quality objectives are aligned, as EU legislation has been transposed into UK law. However, following Brexit, the two are likely to slowly diverge. This makes any requirement to comply with EU objectives unjustified, and so it is recommended that the policy should refer to UK air quality objectives only. Note that the EU is also referenced in supporting text paragraph 5.64. If UK data could be sourced, this would be more up-to-date for the same reason.</p>
<p>Effectiveness of policy</p>	<p>As worded, there are issues that would render the policy less effective, including that AQN is not possible at Whitburn and that the local evidence, including the fact that no part of the neighbourhood plan area is an AQMA, is not strong enough to justify stricter requirements than South Tyneside's (emerging) policy. However, if the recommendations set out above were implemented, including but not limited to requiring BREEAM assessment for new development (albeit that this may be downgraded at examination), the policy would become easier to understand and apply and therefore as effective as it is possible to be within the relevant evidence and policy constraints applying at Whitburn.</p>
<p>Conformity check</p>	<p>Relevant adopted and emerging policies at local and national level⁵¹ are as follows:</p> <ul style="list-style-type: none"> • South Tyneside adopted Core Strategy 2007 policy EA5 Environmental Protection, whose clause A requires new development to act to reduce levels of pollution, environmental risk and nuisance throughout the Borough, and whose clause D requires new development to ensure that its individual and cumulative effects do not breach noise, hazardous substances or pollution limits;

⁵⁰ It is also newly adopted as of May 2021, so there is the possibility that this requirement could be struck out if challenged by a developer as rendering development unviable.

⁵¹ All adopted and emerging local and national air quality policies apply irrespective of location, i.e. both inside and outside AQMAs.

- South Tyneside emerging Local Plan pre-publication draft, whose policy NE10 Air Quality states that proposals will be supported where they can demonstrate that the proposal contributes to the improvement of air quality or where the proposal does not;
 - a) Lead to further deterioration of air quality,
 - b) Create any new areas that exceed air quality limits,
 - c) Delay the attainment of compliance with legal limits in areas where these are currently exceeded.

Residential or other sensitive development, such as schools, hospitals and care facilities should be located where air quality meets national air quality objectives.

Where significant air quality impacts are likely to be generated by the development, an appropriate air quality assessment would be required.⁵² Proposals that would result in exposure to air pollution that exceeds national air quality objectives will only be approved where satisfactory mitigation measures can be implemented.

Air quality assessments should quantify changes in pollutant concentrations and exposure to poor air quality resulting from the proposed development. Impacts must be assessed in the context of relevant national and international objectives and targets. The assessment must take into account any potential cumulative impacts as a result of known development proposals in the vicinity of the development. The air quality assessment should include:

- d) An assessment of the existing air quality situation in the study area. Receptor points should be agreed with the Council prior to commencement;
- e) Prediction of future air quality without the proposed development;
- f) Prediction of future road transport emissions and air quality with the proposed development;
and
- g) An assessment of the effect of the proposed development on road transport emissions and air quality including the proposed mitigation measures.

- National Planning Policy Framework (adopted February 2019), specifically paragraph 181.

While it is fair to say that the adopted Core Strategy policy is weak on air quality, it is now out of date for planning purposes in any case, having been superseded by the NPPF, which is stronger. However, the emerging South

⁵² In its comments on the draft version of this EBPD, the Forum queried the exact definition of 'significant impact' in this policy. This is a question that would have to be answered by STC, as they drafted it.

	<p>Tyneside air quality policy NE10 is in fact about as strong as a local plan policy on air quality can be, so once adopted, and subject to changes made at its Examination in Public (EiP), it should in fact offer a strong level of protection to Whitburn in its own right. However, neither it nor the NPPF cover indoor air quality- the closest either gets is emerging South Tyneside policy D2 General Design Principles, which requires applicants to demonstrate that proposals 'have particular regard to⁵³ BREEAM or its successor'. As such, subject to the amendments recommended above, the policy should be in conformity with national and local policy, but without duplicating or restating their requirements.</p>
<p>Conclusion and recommendations</p>	<p>Footnotes and cross-references to relevant evidence (including WNP Appendix D) and adopted/emerging national and local policy should be added to the supporting text. Additionally, it should be made clear that only emissions from traffic and not from other sources have been gathered as evidence.</p> <p>The evidence in the Air Quality Assessment Version 2 shows that it is likely that traffic through Whitburn contributes to poorer air quality within 200 metres of main roads, but that is, scientifically and in terms of policy, about the only conclusion that can be stated without further detailed evidence gathering (which is not recommended).</p> <p>The presentation of the diffusion tube data could be improved. The data should be presented with the annual mean for each year, and the bias adjustment method stated.</p> <p>The policy states that new development should be Air Quality Neutral (AQN) but this is a policy/methodology specific to London, so cannot be applied in Whitburn because the benchmarking would be inaccurate. An alternative and more suitable approach is calculation of the 'damage cost' of the development, but the emerging South Tyneside Local Plan does not require this and the only AQMAs in South Tyneside are outside the neighbourhood plan area. As such, requiring developers to provide a more comprehensive assessment of air quality in Whitburn could be vulnerable to challenge; this assessment is made on the basis of the constraints applying to neighbourhood plan policy rather than the merits or otherwise of requiring assessment. Rather, assessment could perhaps be encouraged for all development within 200 metres of main roads (as opposed to major development anywhere in the plan area), because the evidence gathered suggests this is where it is most needed.</p> <p>Requiring an indoor air quality assessment for major development in an area that is not substantially above the ambient air quality objectives or within an AQMA will be difficult to justify. However, importantly, indoor air quality assessments are part of BREEAM, and it is therefore recommended that either this policy (or other relevant neighbourhood plan policies, e.g. on development design) be amended to require buildings to meet BREEAM</p>

⁵³ Note- it does not *require* a BREEAM assessment.

standards (or their successor) for this reason. While there is no guarantee that a requirement for BREEAM would be accepted by the Examiner, the worst that can happen is that he or she would downgrade it to encouragement, which is better than not referencing BREEAM at all.

References in the policy and supporting text to EU air quality objectives should be updated post-Brexit.

If the recommendations set out above were implemented the policy would become easier to understand and apply and therefore as effective as it is possible to be within the relevant applicable evidence and policy constraints.

Subject to the amendments recommended above, the policy should be in conformity with national and adopted/emerging local policy, but without duplicating or restating their requirements.

Appendix 2: Relevant ‘made’ neighbourhood plan policies

Alongside the advice presented in this report, WNF may find it helpful to refer to the following neighbourhood plans that have now been ‘made’ or adopted, and many of which AECOM advised as the neighbourhood planners developed their plans. All of the neighbourhood plans listed are available online. Site-specific policies have been excluded from this analysis as they are not comparable with site-specific policies elsewhere (given that every site and its planning context is different).

‘Made’ neighbourhood plan	Relevant policy/policies	Corresponding Whitburn policy
Allensmore (Herefordshire)	A7- Drainage, Flooding and Sewage	WNP13: Sewage and Drainage Infrastructure
Lovelace (Guildford)	LNPI1: Infrastructure	WNP13: Sewage and Drainage Infrastructure
Steeton with Eastburn and Silsden (Bradford)	SWES7- Infrastructure for New Development	WNP13: Sewage and Drainage Infrastructure
Bromsash, Gorsley and Linton (Herefordshire)	BGL3: Building Design (clause 3)	WNP13: Sewage and Drainage Infrastructure
Loxwood (Chichester)	Policy 8	WNP13: Sewage and Drainage Infrastructure
Malborough (South Hams)	Objective G2	WNP13: Sewage and Drainage Infrastructure
Morpeth (Northumberland)	Community Action CAInf1	WNP13: Sewage and Drainage Infrastructure
Truro and Kenwyn (Cornwall)	E2. Sustainable Drainage E3. Sewage facilities	WNP13: Sewage and Drainage Infrastructure
Wisborough Green (Chichester)	IN1: Waste Water Management	WNP13: Sewage and Drainage Infrastructure
Birdham (Chichester)	Policy 21: Wastewater Disposal	WNP13: Sewage and Drainage Infrastructure
Burpham (Guildford)	B-FD4: Water Supply and Sewerage Infrastructure	WNP13: Sewage and Drainage Infrastructure
Wolvercote (Oxford)	BES2- Air Pollution	WNP15: Air Quality
Bengeo (East Hertfordshire)	HBN4: Improving Air Quality	WNP15: Air Quality

'Made' neighbourhood plan	Relevant policy/policies	Corresponding Whitburn policy
Clotton Hoofield (Cheshire West and Chester)	RT3 Improving Air Quality	WNP15: Air Quality
Lovelace (Guildford)	LNPEN5: Air Quality and Traffic	WNP15: Air Quality
Knightsbridge (Westminster)	KBR34: Healthy Air	WNP15: Air Quality

Appendix 3: Further guidance on neighbourhood planning policy

Further advice can be found in the following places:

- The full range of technical support packages available through Locality can be found at: <https://neighbourhoodplanning.org/about/technical-support/>
- Advice on writing planning policies is can be found by following the link below: <https://neighbourhoodplanning.org/toolkits-and-guidance/write-planning-policies-neighbourhood-plan/>
- Advice on drafting Neighbourhood Development Orders and bringing forward community-led housing is available on the Locality website: <https://neighbourhoodplanning.org/toolkits-and-guidance/neighbourhood-development-orders-community-right-build-orders/>

These best practice toolkits, together with a final health check, which is available free of charge, will aid WNF in ensuring the Plan meets the Basic Conditions that enable a draft plan to proceed to referendum.

