

## HOYLAKE NEIGHBOURHOOD DEVELOPMENT PLAN

### POST EXAMINATION DECISION STATEMENT

This document is the decision statement required to be prepared under Regulation 18(2) of the Neighbourhood Planning Regulations 2012<sup>1</sup>, which sets out the Council's response to each of the recommendations contained within the Report to Wirral Council on the Examination into the Hoylake Neighbourhood Development Plan by Independent Examiner Terry Heselton BA Hons, Dip TP, MRTPI, which was received by the Council in April 2016. The Independent Examination is intended to ensure that the Neighbourhood Plan meets the 'Basic Conditions' as well as a number of other legal requirements of the relevant legislation. The Basic Conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The relevant basic conditions are (in summary) that:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- The making of the neighbourhood plan contributes to the achievement of sustainable development;
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area); and
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) additionally requires (in summary) that:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects).

The table below reproduces the text of each of the Examiner's recommendations, the modifications that the Council proposes to make to the proposed Neighbourhood Development Plan and its associated documents and the reasons for each of the decisions taken.

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<sup>1</sup> SI 2012 No. 637 (as amended)

Rec No.	Examiner’s recommendation	Modifications proposed (underlined text indicates the insertion of new or revised wording)	Reasons for decision
01 (a)	<b>Incorporate an explanation about the five year time period in the Introduction to the Plan, linked to the transition from current WUDP policies to the emerging CSLP.</b>	<p><u>Recommendation accepted:</u></p> <p>Insert the following text on page 5 before and including the section headed “Being a good neighbour”:</p> <p><b><u>The Plan period</u></b></p> <p><u>The NDP plan period is 2015 to 2020. This timescale has been chosen because the NDP has been prepared in the period of transition from the current Wirral UDP to the emerging Wirral CSLP, due for adoption in late 2017. It is recognised that once the CSLP is adopted, any conflict between the Hoylelake NDP and the CSLP will have to be addressed in line with Section 38(5) of the Planning and Compulsory Purchase Act 2004, which requires that the conflict must be resolved by favouring the policy which is contained in the last document to become part of the development plan. As such, once the CSLP is adopted (estimated by the Council to be in late 2017), Hoylelake Vision will consider whether an early review of the NDP is required to reflect any changes at the strategic planning level introduced by the CSLP.</u></p> <p><b><u>Being a Good Neighbour</u></b></p> <p><u>The NDP boundary divides Hoylelake from Meols and West Kirby. In addition to having regard to changes at the strategic planning level in co-operation with the Council, Hoylelake Vision will regularly review all NDP policies. The effect of NDP policies upon surrounding areas will be taken into account in any decision to introduce additional policies or modify existing ones.</u></p>	For the reasons set out in paragraphs 4.14 – 4.18 of the Examiner’s report
01 (b)	<b>Incorporate an additional reference in the Introduction to the Plan regarding the intention to review the Plan proposals to reflect changes at strategic planning level introduced by the emerging CSLP.</b>	<p><u>Recommendation accepted:</u></p> <p>References to plan review included in additional text as shown in the proposed modifications to under Recommendation 01 (a).</p>	For the reasons set out in paragraphs 4.14-4.18 of the Examiner’s report.
02	<b>Incorporate additional explanation in Theme 5 (Homes</b>	<p><u>Recommendations accepted:</u></p> <p>To address point (i) insert additional text after final paragraph under theme 5 on page 13 as</p>	For the reasons set out in paragraphs 6.10-6.16 of the

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	<p>in Hoylelake) on page 12 and in Subsection 5.6 (Homes in Hoylelake) on page 37 to the effect that:</p> <p>(i) responsibility for assessing objectively assessed housing need rests with Wirral Council although as the emerging CSLP will not establish a specific housing requirement for Hoylelake, policies in the Neighbourhood Plan focus on managing infill and other windfall proposals to ensure there is no significant adverse impact on the local area, and</p> <p>(ii) In considering future proposals for residential development decision makers will take a range of factors into account including Neighbourhood Plan policies, extant WUDP policies and whether or not there is a Borough wide five year housing land supply.</p>	<p>follows:-</p> <p><u>Responsibility for assessing objectively assessed housing need rests with Wirral Council, although as the emerging CSLP will not establish a specific housing requirement for Hoylelake, policies in this NDP focus on managing infill and other windfall proposals to ensure there is no significant adverse impact on the local area.</u></p> <p>To address point (ii), insert additional text before second paragraph on page 38:-</p> <p><u>In considering future proposals for residential development, decision makers will take a range of factors into account including Hoylelake NDP policies, extant Wirral UDP policies and whether or not there is a Borough-wide five year housing land supply.</u></p>	<p>Examiner’s report.</p>
03	<p>References and quotations taken from the emerging CSLP should be qualified throughout the document by reference to the ‘emerging CSLP’ or the ‘draft CSLP’</p>	<p><u>Recommendation accepted:</u></p> <p>All references to the Core Strategy Local Plan – to now read “emerging CSLP”</p>	<p>For the reasons set out in paragraphs 6.28-6.31 of the Examiner’s report.</p>
04	<p>Insert ‘<i>non land use</i>’ before ‘priorities’ throughout the document as appropriate.</p>	<p><u>Recommendation accepted:</u></p> <p>All ‘Priorities’ headings under each policy section amended to read “<b>Non-land use Priorities</b>”</p>	<p>For the reasons set out in paragraphs 6.32-6.36 of the Examiner’s report.</p>

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05	In the second paragraph on page 7 delete 'These figures indicate that Hoylake, whilst retaining a significant number of older people,' and insert 'While retired people make up nearly one quarter of the population, compared to 16% nationally, the above figures indicate that Hoylake'	<p><u>Recommendation accepted:</u></p> <p>Amend second paragraph on page 7 as follows:</p> <p><del>These figures indicate that Hoylake, whilst retaining a significant number of older people,</del> While retired people make up nearly one quarter of the population, compared to 16% nationally, the above figures indicate that Hoylake is becoming a popular place for young families to settle and its population is increasing. This challenges the commonly held view that Hoylake is a predominantly retirement-age community with relatively few people of working-age and a declining population. The 2011 Census data confirms that there is a sound foundation in Hoylake on which to build a more sustainable community.</p>	For the reasons set out in paragraphs 6.42-6.43 of the Examiner's report.
06 (a)	(a) Insert an additional paragraph in 'Socio-Economic Profile' explaining that where Hoylake specific data is not available indicative information for larger geographical areas such as the Hoylake-Meols Ward has been used, which should only be taken as a guide.	<p><u>Recommendation accepted:</u></p> <p>Insert additional paragraph under '<b>Socio-Economic Profile</b>' heading on page 6 to read:</p> <p><u>The Council have estimated that the population of the Hoylake NDP area is 5,851. Because other NDP area-specific data is not readily available, indicative information for larger geographical areas (mainly the Hoylake and Meols Ward) has been used, which should only be taken as a guide.</u></p>	For the reasons set out in paragraphs 6.44-6.47 of the Examiner's report
06 (b)	In the first paragraph in 'Socio-Economic Data' insert a reference to the date and source of the household income data and provide a comparative figure for the Wirral Council area as a whole.	<p><u>Recommendation accepted:</u></p> <p>Amend second paragraph under '<u>Socio-Economic Profile</u>' heading on page 6 to read:</p> <p>Hoylake and Meols Ward has a population of about 12,834 (<del>the population of the NDP area is considerably smaller than this</del>) with an average household income of <del>£35,608</del> <u>£37,717 compared with the Wirral average household income of £30,093</u>. This suggests that it is a relatively affluent part of Wirral.</p> <p>(Insert footnote to identify source as Wirral Compendium of Statistics 2016)</p>	For the reasons set out in paragraphs 6.44-6.47 of the Examiner's report
06 (c)	In the first paragraph on page 7 insert 'and Meols Ward' after	<p><u>Recommendation accepted:</u></p>	For the reasons set out in paragraphs 6.44-6.47 of the

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	‘Hoylake’.	First sentence on page 7 to be amended to read:  The 2011 Census figures also reveal the following trends in Hoylake <u>and Meols Ward</u> since the last census in 2001.	Examiner’s report
06 (d)	<b>In the first sentence under Theme 5 (Homes in Hoylake) on page 12 delete ‘in Hoylake’ and insert ‘<i>within the Wirral Council area as a whole</i>’.</b>	<u>Recommendation accepted:</u> First sentence under Theme 5 to be amended to read:  The Wirral <b><i>Strategic Housing Market Assessment</i></b> (SHMA) and <b><i>Strategic Housing Land Availability Assessment</i></b> (SHLAA) provide a useful overview of the current state of the housing market in <u>Hoylake within the Wirral Council area as a whole</u> :	For the reasons set out in paragraphs 6.46 of the Examiner’s report
06 (e)	<b>In the fourth bullet point on page 12 insert ‘affordable’ after ‘153’.</b>	<u>Recommendation accepted:</u> Fourth bullet point amended to read:  Nett annual requirement of 153 <u>affordable</u> dwellings in Hoylake and Meols (SHMA, 2010, p. 61).	For the reasons set out in paragraph 6.47 of the Examiner’s report.
07 (a)	<b>Delete ‘both the UDP and the CSLP’ in paragraph 4 on page 3 and insert ‘<i>the UDP and has had regard to emerging policies in the CSLP</i>’</b>	<u>Recommendation accepted:</u> Paragraph 4 on page 3 amended to read:  The <u>CSLP</u> <del>emerging CSLP</del> currently carries little weight but, as it progresses closer towards adoption, it will accrue more weight. The Council considers that the NDP is in general conformity with <del>strategic policies of both</del> the UDP and <u>has had regard to emerging policies in the CSLP</u> .	For the reasons set out in paragraph 6.50 of the Examiner’s report
07 (b)	<b>Delete ‘More detail about the plan preparation process can be found on pages 42-43 of this document’ in paragraph 3 on page 4 and insert ‘<i>Information about the monitoring, implementation and review of this plan can be found on page</i>’</b>	<u>Recommendation accepted:</u> Final sentence under paragraph 3 on page 4 to read:  <del>More detail about the plan preparation process</del> <u>Information about the monitoring, implementation and review of this plan</u> can be found on pages <del>42-43</del> of this document.	For the reasons set out in paragraph 6.51 of the Examiner’s report

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	<i>43 of this document</i> '.		
07 (c)	Change 'A Distinctive Identity' on the contents page to ' <i>Special Buildings and Places</i> ', and delete 'A Distinctive Identity' from the heading on page 33.	<p>Recommendation accepted:</p> <p>Contents page amended to read:</p> <p><b>5.5. <del>A Distinctive Identity</del>: Special Buildings and Places</b></p> <p>and heading on page 33 amended to read:</p> <p><b>5.5. <del>A Distinctive Identity</del>: Special Buildings and Places</b></p>	For the reasons as set out in paragraph 6.52 of the Examiner's report.

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07 (d)	<p><b>Clarify that the reference to Barclays Bank as a listed building on page 11 is to the ‘former Barclays Bank’ and remove reference to the former bank as an ‘unlisted building with architectural, historical or community value’ on pages 12 and 33 of the Plan.</b></p>	<p><u>Recommendation accepted:</u></p> <p>To clarify that there is only one former Barclays Bank (the listed building on 52a Market Street), the following amendments to be made:</p> <p>Final paragraph on page 11 to be amended to read:</p> <p>There are six listed buildings and structures within the Hoylake NDP area:</p> <ul style="list-style-type: none"> <li>• Drinking fountain, Meols Parade (1901, Grade II listed)</li> <li>• Valentia Lighthouse and Keeper’s house (1865, Grade II listed)</li> <li>• Church of St Hildeburgh (1897-9, Grade II listed)</li> <li>• <u>Former</u> Barclays Bank <u>52a Market Street</u> (1900s, Grade II listed)</li> <li>• United Reform Church (1906, Grade II listed)</li> <li>• Hoylake railway station (1938, Grade II listed)</li> </ul> <p>First paragraph on page 12 to be amended as follows:</p> <p>There are a number of unlisted buildings that have architectural, historical or community value and contribute to Hoylake’s special identity (for example the Old Lifeboat Station, the Hoyle Road Community Centre, <del>former Barclays Bank</del> and Jessie’s Yard). There are also small details that contribute to local character (e.g. railings, historic boundary walls, shop canopies, cobbled alleyways, historic street signs and decorative tiling). These may all be identified as heritage assets despite not enjoying statutory protection.</p> <p>Third paragraph on page 33 to be amended as follows:</p> <p>There are also a number of unlisted buildings that have architectural, historical or community value and contribute to Hoylake’s special identity. These include:</p> <ul style="list-style-type: none"> <li>• Old Lifeboat Station;</li> <li>• Hoyle Road Community Centre, and</li> <li>• <del>Former Barclays Bank.</del></li> </ul>	<p>For the reasons set out in paragraph 6.53 of the Examiner’s report</p>

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08 (a)	Replace the first sentence of the Vision Statement with the following <i>'To maintain Hoylake as an environmentally attractive seaside town and socially inclusive and sustainable place to live, work in and to visit'</i> , and delete <i>'socially conscious' in the second sentence</i> and insert <i>'well housed'</i> .	<p><u>Recommendation accepted:</u></p> <p>Amend the Vision Statement to read:</p> <p><i>To maintain Hoylake as an <u>environmentally</u> attractive seaside town and <u>socially inclusive and sustainable</u> <del>a popular</del> place to live, <u>work</u> -in and to visit. To be a healthier, <u>socially conscious-well housed</u> community with a thriving economy which values creativity and entrepreneurialism. To support a vibrant town centre, which meets the day-to-day needs of local people and provides high quality food, drink and entertainment opportunities for residents and visitors. To support the town centre and the Carr Lane Industrial Estate as the foci for a wide range of easily accessible jobs.</i></p>	For the reasons set out in paragraphs 6.54-6.57 of the Examiner's report
08 (b)	Replace objective 1 with the following new objective <i>'To support the provision of additional housing, including affordable housing to meet the identified needs of the existing and future population'</i> .	<p><u>Recommendation accepted:</u></p> <p>Objective 1 (page 16) amended to read:</p> <p><del>To ensure that Hoylake remains an attractive, socially inclusive and sustainable place to live.</del> <u>To support the provision of additional housing, including affordable housing to meet the identified needs of the existing and future population</u></p>	For the reasons set out in paragraphs 6.54-6.57 of the Examiner's report
08 (c)	Delete <i>'good living conditions' in objective 3</i> and insert <i>'the amenities of the local area, particularly the amenities of local residents'</i> .	<p><u>Recommendation accepted:</u></p> <p>Objective 3 (page 16) amended to read:</p> <p><i>To support a vibrant evening economy which provides high quality food, drink and entertainment opportunities, cultural attractions and later retail trading without prejudicing <u>the amenities of the local area, particularly the amenities of local residents.</u></i></p>	For the reasons set out in paragraph 6.60 of the Examiner's report.
08 (d)	Insert <i>'with an appropriate range of facilities'</i> after <i>'tourism destination'</i> in objective 4.	<p><u>Recommendation accepted:</u></p> <p>Objective 4 (page 16) amended to read:</p> <p><i>To more fully realise the potential of the promenade as an accessible leisure and tourism destination <u>with an appropriate range of facilities</u> for residents and visitors.</i></p>	For the reasons set out in paragraph 6.61 of the Examiner's report.

Rec No.	Examiner’s recommendation	Modifications proposed (underlined text indicates the insertion of new or revised wording)	Reasons for decision
08 (e)	Substitute ‘ <i>conserve</i> ’ for ‘ <i>preserve</i> ’ in objective 7.	<p><u>Recommendation accepted:</u></p> <p>Objective 7 (page 17) amended to read:</p> <p>To <del>preserve</del><u>conserve</u> and enhance the distinctive Victorian and Edwardian character of Hoylake and its maritime and sporting heritage, recognising that these are key elements in making Hoylake a special place.</p>	For the reasons set out in paragraph 6.62 of the Examiner’s report.
08 (f)	Delete ‘balance the need to’ in objective 8, delete ‘with the desire to improve on-street car parking’, and substitute ‘ <i>and to support public transport and traffic management initiatives</i> ’ for ‘promote public transport and minimise traffic congestion’.	<p><u>Recommendation accepted:</u></p> <p>Objective 7 (page 17) amended to read:</p> <p>To <del>balance the need to</del> maintain a safe and attractive pedestrian and cycling environment <del>with the desire to improve on-street car parking</del> within the town centre, <del>and to support public transport and traffic management initiatives</del><u>promote public transport and minimise traffic congestion.</u></p>	For the reasons set out in paragraph 6.63 of the Examiner’s report
09	At the end of each subsection incorporate a list of extant local strategic policies in the WUDP which individual policies are considered to comply with.	<p><u>Recommendation accepted:</u></p> <p>Extant local plan policies as included in Appendix II of the Basic Conditions Statement now to be added under “Policy Compliance” sections.</p>	For the reasons set out in paragraph 6.72 of the Examiner’s report
10 (a)	Insert ‘ <i>nature conservation</i> ’ after ‘internationally important’ in line 2 and line 7 of Policy NC1.	<p><u>Recommendation accepted:</u></p> <p>Insertions included in revised Policy NC1 under recommendation 10 (b) below.</p>	For the reasons set out in paragraph 6.77 of the Examiner’s report

Rec No.	Examiner’s recommendation	Modifications proposed (underlined text indicates the insertion of new or revised wording)	Reasons for decision
10 (b)	Delete ‘Adverse effects should be avoided, or where this is not possible they should be mitigated, to make sure that the integrity of internationally important sites is protected.’, in Policy NC1 and substitute ‘if the adverse effects can be removed by conditions or planning obligations, or in the absence of alternative solutions,’ for ‘where there are no alternative solutions and’ in line 8.	<p><u>Recommendation accepted:</u></p> <p>Policy NC1 to be amended to read (incorporating recommendation 10(a):</p> <p><b>NC1. PROTECTION OF NATURA 2000 SITES</b></p> <p>Proposals which may result in a likely significant effect on an internationally important <u>nature conservation</u> site must be accompanied by sufficient evidence to enable the Council to make a Habitats Regulations assessment. <del>Adverse effects should be avoided, or where this is not possible they should be mitigated, to make sure that the integrity of internationally important sites is protected.</del> Proposals which may adversely affect the integrity of internationally important <u>nature conservation</u> sites will only be permitted <u>if the adverse effects can be removed by conditions or planning obligations, or in the absence of alternative solutions,</u> <del>where there are no alternative solutions and</del> there are imperative reasons of overriding public interest and where compensatory provision has been made. This also applies to sites and habitats outside the designated boundaries that support species listed as being important in the designations of the internationally important sites (i.e. functionally-linked habitat).</p>	For the reasons set out in paragraph 6.76 of the Examiner’s report
10 (c)	Combine the first paragraph in subsection 5.1 with the reasoned justification for the policy.	<p><u>Recommendation accepted:</u></p> <p>First paragraph in subsection 5.1 (page 19) relocated as first paragraph under Reasoned Justification heading:</p> <p><u>Natura 2000 is the umbrella term given to the network of Special Areas of Conservation (SACs) designated under the EU Habitats Directive and Special Protection Areas (SPAs) designated under the EU Birds Directive. The internationally important Natura 2000 sites on the foreshore at Hoylake - the Dee Estuary SAC and Mersey Narrows and North Wirral Foreshore SPA - are amongst the most important features of the region’s natural environment.</u></p>	For the reasons set out in paragraph 6.79 of the Examiner’s report

Rec No.	Examiner's recommendation	Modifications proposed (underlined text indicates the insertion of new or revised wording)	Reasons for decision
10 (d)	<b>Insert a new paragraph providing information about Natura 2000 sites including an explanation about their significance and designation, a description of the habitats and associated birdlife present, and their relationship with other land uses and activities.</b>	<p><b><u>Recommendation accepted:</u></b></p> <p>Insert following additional paragraph in reasoned justification (recommendation 10c) to Policy NC1 to follow paragraph inserted under recommendation 10(d):</p> <p><u>The Mersey Narrows and North Wirral Foreshore Special Protection Area (SPA) and Ramsar sites comprise of internationally important feeding and roosting habitat for wintering wading birds. The site includes the extensive intertidal flats at North Wirral Foreshore adjacent to Hoylake. The Mersey Narrows and North Wirral Foreshore site has clear links in terms of bird movements with the nearby Dee Estuary SPA and Ramsar sites, Ribble and Alt Estuaries SPA and Ramsar sites, and to a lesser extent, the Mersey Estuary SPA and Ramsar sites. The Dee Estuary Special Area of Conservation (SAC) includes the Dee Estuary itself and areas of intertidal flats on the North Wirral Foreshore and on the north east Wales coast, east of Prestatyn. The SAC has been designated because of its size and biological interest including its saltmarshes, intertidal mudflats and sandflats, sand dunes, drift line vegetation and sea cliffs, the presence of petalwort, sea lamprey and river lamprey that migrate through the area. The designations mean that recreational activities and management of the beach at Hoylake, including removal of Spartina grass are subject to additional controls and agreements with Natural England.</u></p>	For the reasons set out in paragraph 6.79 of the Examiner's report.
10 (e)	<b>Incorporate a map for information purposes identifying Natura 2000 sites within the vicinity of Hoylake.</b>	<p><u>Recommendation accepted:</u></p> <p>Additional map (from the Habitats Regulations Assessment Report) is added at the end of reasoned justification to Policy NC1</p>	For the reasons set out in paragraph 6.79 of the Examiner's report
10 (f)	<b>Delete 'whether in Hoylake or elsewhere' in line 2 of the reasoned justification and insert 'within or in the vicinity of Hoylake'.</b>	<p><u>Recommendation accepted:</u></p> <p>Existing first sentence in the 1st paragraph in the reasoned justification to Policy NC1 amended to read (including deletion under 10(g))</p> <p><b>Policy NC1</b> sets out the requirements for development which affects internationally important nature <u>conservation sites, <del>whether in Hoylake or elsewhere</del> within or in the vicinity of Hoylake.</u></p>	For the reasons set out in paragraph 6.80 of the Examiner's report

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10 (g)	Delete the last sentence in the reasoned justification.	<p><u>Recommendation accepted:</u> Final sentence in reasoned justification to be deleted as follows:</p> <p><del>To comply with the <b>Habitats Regulations 2010</b> (as amended), compensation for internationally important sites must be made before development begins, as set out in the policy.</del></p>	For the reasons set out in paragraph 6.81 of the Examiner's report

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11	<p><b>Delete Policy HS4</b></p> <p>The Examiner’s report notes that while the reasons for preparing a design guide are understood, no evidence or explanation is provided to justify the policy and shopfront design is not referenced in the commentary on the ‘Improving the Town Centre’ theme.</p> <p>The HVL Shopfront Design Guide (published in draft on the HVL website in 2011) has not been subject to public consultation. There is no mechanism to keep it up to date to future proof the NDP.</p> <p>In view of impracticality of using the HVL Design Guide to inform consideration of planning applications, Policy HS4 does not add anything to extant WUDP Policy SH8 (Criteria for Shop Fronts) and should be deleted.</p>	<p><u>Recommendation accepted:</u></p> <p>Policy HS4 deleted as follows:</p> <p><del>HS4. SHOPFRONT DESIGN</del></p> <p><del>All proposals that would involve the alteration, replacement or creation of a shopfront within the town centre boundary shown on the Proposals Map will be expected to comply with the advice found in the Shopfront Design Guide, published in 2011 by Hoylake Village Life.</del></p> <p>Policy HS5. Evening Economy to be re-numbered as: <b>Policy HS4. Evening Economy</b></p> <p>Policy HS6. Upper Floors to be re-numbered as: <b>Policy HS5. Upper Floors</b></p> <p>Consequential amendments to be made to the policy references in the Basic Conditions Statement <u>and in the text on Maps 2,3,6 and 7.</u></p>	<p>For the reasons set out in paragraphs 6.103-6.107 of the Examiner’s report</p>

Rec No.	Examiner's recommendation	Modifications proposed ( <u>underlined</u> text indicates the insertion of new or revised wording)	Reasons for decision
12	Delete 'living conditions of occupants of nearby buildings with a residential use', in Policy HS5 and insert ' <i>the amenities of the local area, particularly the amenities of local residents</i> ', and make consequential changes to the accompanying text.	<p><u>Recommendation accepted:</u> Policy NC5 amended to read: <b>HSSHS4. EVENING ECONOMY</b></p> <p>Within the town centre boundary shown on the Proposals Map all development proposals, including those for a change of use, that would promote and/or support early evening activity related to high quality food and drink, arts and cultural uses and later retail trading will be permitted, subject to the proposal being able to demonstrate that it would have no significantly adverse effect upon the <u>amenities of the local area, particularly the amenities of local residents</u><del>living conditions of occupants of nearby buildings with a residential use.</del></p> <p>Second paragraph on page 21 to be amended as follows:</p> <p>The town centre would benefit from premises extending opening hours into the early evening and by increasing the offer of high quality food, drink and cultural uses alongside traditional retail. It is important that any such changes be balanced with the need to protect the <u>amenity living conditions</u> of people living nearby <u>and the amenity of the local area from potential adverse impacts such as anti-social behaviour, litter, noise and light pollution</u>. Evening economy businesses should be encouraged to engage with the Council and other regulators and stakeholders, including <i>Merseyside Police</i>, and to conform to agreed collaborative actions to protect living conditions and promote community safety.</p>	For the reasons set out in paragraph 6.112 of the Examiner's report
13 (a)	Delete 'Creating new' in the third bullet point in policy BR1 and insert ' <i>Providing appropriate types of</i> '	<p><u>Recommendation accepted:</u> Deletion/insertion included in revised Policy BR1 under recommendation 13 (e) below</p>	For the reasons set out in paragraph 6.125 of the Examiner's report
13 (b)	Insert ' <i>provided this would not create or exacerbate conflict with other activities, including beach related activities</i> ' after 'will be supported' in line 9 of policy BR1.	<p><u>Recommendation accepted:</u> Insertion shown in revised Policy BR1 under recommendation 13 (e) below.</p>	For the reasons set out in paragraph 6.124 of the Examiner's report

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13 (c)	<p>Insert <i>‘provided there is no conflict with the most up to date local strategic policy for safeguarding identified areas of urban greenspace’</i> after ‘will be permitted’ in line 11 of policy BR1.</p>	<p><u>Recommendation accepted:</u> Insertion shown in revised Policy BR1 under recommendation 13 (e) below.</p>	<p>For the reasons set out in paragraph 6.127 of the Examiner’s report</p>
13 (d)	<p>Insert an explanation in the text accompanying Policy BR1 that part of the area(s) identified as a focal point for seafront recreation is designated as Urban Greenspace in the WUDP (Policy GR2), where development will only be permitted if proposals do not prejudice visual amenity, landscape character, nature conservation value or continued use of the site for open air recreation, and that proposals will need to satisfy the requirements of both policies.</p>	<p><u>Recommendation accepted:</u> Insert following paragraph after 4<sup>th</sup> paragraph on page 26:</p> <p><u>Part of the area identified as a focal point for seafront recreation is designated as Urban Greenspace in the WUDP (Policy GR2), where development will only be permitted if proposals do not prejudice visual amenity, landscape character, nature conservation value or continued use of the site for open air recreation and proposals will need to satisfy the requirements of this policy in addition to BR1 below.</u></p>	<p>For the reasons set out in paragraph 6.126 of the Examiner’s report</p>

Rec No.	Examiner’s recommendation	Modifications proposed ( <u>underlined</u> text indicates the insertion of new or revised wording)	Reasons for decision
13 (e)	<p>Delete ‘or adjacent internationally or nationally important nature sites’ in line 13 of policy BR1, and insert a new sentence after ‘will not be permitted’ in line 14, <i>‘Development which would adversely affect the integrity of internationally important nature conservation sites will only be permitted exceptionally in accordance with Policy NC1’.</i></p>	<p><u>Recommendation accepted:</u></p> <p>Policy BR1 amended (incorporating recommendations 13(a), 13(b) and 13(c)) to read:</p> <p><b>BR1. SEAFRONT RECREATION</b></p> <p>Proposals that would meet an evidenced community need for better recreational facilities or would make sustainable use of the promenade for public recreation by:</p> <ul style="list-style-type: none"> <li>• Enhancing the public realm;</li> <li>• Improving existing community and/or visitor facilities;</li> <li>• <del>Creating new</del><u>Providing appropriate types of</u> community and/or visitor facilities, or</li> <li>• Providing high quality and sensitively located food and drink outlets</li> </ul> <p>will be supported <u>provided this would not create or exacerbate conflict with other activities, including beach related activities.</u> Proposals that would accord with the above criteria and would be located within the areas defined on the Proposals Map as ‘focal points for seafront recreation’ will be permitted <u>provided there is no conflict with the most up to date local strategic policy for safeguarding identified areas of urban greenspace.</u></p> <p>Development that would have a detrimental effect upon the character or coastal defence function of the promenade <del>or adjacent internationally and nationally important nature sites,</del> will not be permitted. <u>Development which would adversely affect the integrity of internationally important nature conservation sites will only be permitted exceptionally in accordance with Policy NC1.</u></p>	<p>For the reasons set out in paragraph 6.128 of the Examiner’s report</p>

Rec No.	Examiner's recommendation	Modifications proposed (underlined text indicates the insertion of new or revised wording)	Reasons for decision
13 (f)	Delete 'no unavoidable ecological damage is caused' in the last sentence in the fourth paragraph on page 25, and insert ' <i>these important nature conservation resources are not harmed</i> '.	<p><u>Recommendation accepted:</u> Last sentence in the 4<sup>th</sup> paragraph on page 25 amended to read:</p> <p>However, a provision has been written into the NDP to ensure that <del>no unavoidable ecological damage is caused</del> <u>these important nature conservation resources are not harmed</u> indirectly by development proposals which would otherwise accord with NDP policies (see <b>Section 1</b> above).</p>	For the reasons set out in paragraph 6.128 of the Examiner's report
14	Incorporate an explanation in the text accompanying Policy TR1 that the policy will be used to influence investment decisions by securing developer contributions toward traffic management schemes and sustainable transport initiatives in connection with development proposals	<p><u>Recommendation accepted:</u> Final paragraph under Issues and Opportunities on page 30 to be amended to read:</p> <p>Most of the issues discussed above would need to be addressed through co-ordinated multi-agency action and investment. They are issues less suited to planning policies, which relate only to the development of land. Nonetheless, it is envisaged that the NDP will play an important rôle by highlighting these issues and seeking community consensus as a first step for action. <u>Policy TR1 will be used to influence investment decisions by securing developer contributions toward traffic management schemes and sustainable transport initiatives in connection with development proposals.</u></p>	For the reasons set out in paragraph 6.140 of the Examiner's report
15 (a)	Delete 'significant' in line 1 of Policy DI1 and insert ' <i>local</i> ' after 'characteristic' in line 2.	<p><u>Recommendation accepted:</u> Deletion and insertion included in revised Policy DI1 under recommendation 15(c) below</p>	For the reasons set out in paragraph 6.146 of the Examiner's report
15 (b)	Delete 'will be permitted unless the proposed changes(s) would' in line 3 and insert ' <i>must not</i> ' after 'this Plan'.	<p><u>Recommendation accepted:</u> Deletion and insertion included in revised Policy DI1 under recommendation 15(c) below</p>	For the reasons set out in paragraph 6.143 of the Examiner's report

Rec No.	Examiner's recommendation	Modifications proposed (underlined text indicates the insertion of new or revised wording)	Reasons for decision
15 (c)	<b>Delete the last sentence of Policy DI1.</b>	<p><u>Recommendation accepted:</u> Policy DI1 to be amended (incorporating recommendations 15(a) and 15 (b) above)</p> <p><b>DI1. CHARACTER BUILDINGS</b></p> <p>The extension or alteration of any building displaying the <del>significant</del> characteristic <u>local</u> features typified by the examples in Appendix 1 of this Plan <del>must not will be permitted unless the proposed change(s) would</del> materially diminish the significant character of the building. <del>Proposals must identify how the design would preserve or enhance the significant character of the building.</del></p>	For the reasons set out in paragraph 6.147 of the Examiner's report
15 (d)	<b>Incorporate additional explanation in the text accompanying Policy DI1 to clarify that national Planning Practice Guidance confers responsibility for identifying non designated heritage assets (referred to as 'locally listed' heritage assets) on Local Planning Authorities and the process of agreeing a 'Local List' would therefore require the co-operation of Wirral Council, and the selection of sites would need to reflect English Heritage guidance for assessing the suitability of buildings to be identified as local heritage.</b>	<p><u>Recommendation accepted:</u> Final paragraph under 'Issues and Opportunities' on page 34 to be amended to read:</p> <p>It is important for the NDP to contain policies that protect buildings and features that do not yet enjoy statutory protection and the loss of which would harmfully degrade the special local character of Hoylake's built environment. To this end, <i>Hoylake Vision</i> undertakes to commission research in support of the creation of a 'local list' of significant buildings. <u>National Planning Practice Guidance confers responsibility for identifying non-designated heritage assets (referred to as 'locally listed' heritage assets on Local Planning Authorities and the process of agreeing a 'local list' will therefore require the co-operation of Wirral Council and the selection of sites will need to reflect English Heritage guidance for assessing the suitability of buildings to be identified as local heritage.</u></p>	For the reasons set out in paragraph 6.148 of the Examiner's report.

Rec No.	Examiner’s recommendation	Modifications proposed (underlined text indicates the insertion of new or revised wording)	Reasons for decision
16 (a)	Insert <b><i>‘and reflect the identity’</i></b> after <b><i>‘distinctive character’</i></b> in line 3 of policy DI2.	<p><u>Recommendation accepted:</u> Policy DI2 amended (incorporating recommendation 16(b) as follows: <b>DI2 SCALE AND DESIGN OF NEW DEVELOPMENT</b> <b>All proposals for new buildings and for the extension or alteration of existing buildings, whether inside or outside the Conservation Areas, must respond to the distinctive character <u>and reflect the identity</u> of the area in terms of their size, design and materials of construction. <del>Where development is likely to affect the significance of any heritage asset identified on the Proposals Map, whether listed or not, the proposal must specify how it would preserve or enhance that significance and should, where appropriate, promote high levels of sustainability.</del></b></p>	For the reasons set out in paragraph 6.155 of the Examiner’s report.
16 (b)	Create a separate policy incorporating the second part of Policy DI2.	<p><u>Recommendation accepted:</u> New Policy DI3 to be inserted, (incorporating recommendations 16(c), 16(d) and 16(e)) to read: <b><u>DI3. DESIGNATED HERITAGE ASSETS</u></b> <b><u>Where development is likely to affect the significance of any designated heritage asset, the proposal must specify how it would conserve and enhance that significance.</u></b></p>	For the reasons set out in paragraph 6.156 of the Examiner’s report.
16 (c)	Insert <b><i>‘designated’</i></b> after <b><i>‘significance of any’</i></b> and delete <b><i>‘identified on the Proposals Map, whether listed or not’</i></b> .	<p><u>Recommendation accepted:</u> Insertion and deletion incorporated in new Policy DI3 under recommendation 16(b) above</p>	For the reasons set out in paragraph 6.158 of the Examiner’s report.
16 (d)	Substitute <b><i>‘conserve’</i></b> for <b><i>‘preserve’</i></b> .	<p><u>Recommendation accepted:</u> Word substitution incorporated in new Policy DI3 under recommendation 16(b) above.</p>	For the reasons set out in paragraph 6.157 of the Examiner’s report.
16 (e)	Delete <b><i>‘and should, where appropriate, promote high levels of sustainability’</i></b> after <b><i>‘enhance that significance’</i></b> in line 7.	<p><u>Recommendation accepted:</u> Deletion incorporated in new Policy DI 3 under recommendation 16 (b) above.</p>	For the reasons set out in paragraph 6.159 of the Examiner’s report.

Rec No.	Examiner’s recommendation	Modifications proposed (underlined text indicates the insertion of new or revised wording)	Reasons for decision
17 (a)	Delete ‘the construction of’ and ‘those for a’ in line 1 of Policy H1 and insert ‘ <i>within the existing built up area, including infilling, redevelopment, conversion</i> ’ after ‘new dwellings’.	<p><u>Recommendation accepted:</u></p> <p>Deletion and insertion incorporated in revised Policy H1 under recommendation 17 (b)</p>	For the reasons set out in paragraph 6.163 of the Examiner’s report.
17 (b)	Insert ‘ <i>the distinctive character of the local area or</i> ’, after ‘adverse effect upon’ in line 5 of Policy H1.	<p><u>Recommendation accepted:</u></p> <p>Policy H1 (incorporating changes under 17a) now to read:</p> <p><b>H1. RESIDENTIAL DEVELOPMENT</b></p> <p>All proposals for <del>the construction of</del> new dwellings <u>within the existing built-up area, including infilling, redevelopment, conversion</u> and <del>those for a</del> change of use of buildings or land to a residential use (Use Classes C1, C2, C3 and C4) will be supported, provided that they would accord with Policies DI2, <u>DI3</u> and CL2 (where relevant) and would not have a significantly adverse effect upon <u>the distinctive character of the local area or</u> the living conditions of occupants of surrounding dwellings.</p>	For the reasons set out in paragraph 6.164 of the Examiner’s report.
17 (c)	Clarify that the estimated dwellings capacity quoted in the ‘Issues and Options’ section preceding Policy H1 is taken from a consultation document on ‘settlement area policies’ published by Wirral Council in connection with the preparation of the CSLP, and that the numbers quoted apply over the whole CSLP period.	<p><u>Recommendation accepted:</u></p> <p>Clarification included in amended paragraph under recommendation 17 (d) below</p>	For the reasons set out in paragraph 6.166 of the Examiner’s report

Rec No.	Examiner’s recommendation	Modifications proposed (underlined text indicates the insertion of new or revised wording)	Reasons for decision												
17 (d)	<p><b>Incorporate additional reference to Wirral Councils updated assessment of housing land capacity for Hoylelake and West Kirby (based on the 2012 SHLAA) which is included in the Spatial Portrait accompanying the Submission Draft CSLP.</b></p>	<p><u>Recommendation accepted:</u></p> <p>Paragraph amended (incorporating recommendations 17 (c)) to read:</p> <p><u>An initial assessment included in the consultation document on draft Settlement Area Policies issued by Wirral Council in 2012 (not included in the subsequent Submission Draft CSLP) indicated <del>The CSLP indicates</del> that the Hoylelake and West Kirby area: “could accommodate between 193 and 308 new homes” <u>over the whole CSLP period.</u> <del>It considers</del><u>considered</u> that: “the main opportunities to provide new housing are associated with infill plots within the curtilage of existing properties” and that “achieving the higher level would involve providing new housing on greenfield sites and on sites designated for employment uses”. <u>In the Submission Draft Spatial Portrait, issued alongside the Submission Draft CSLP, the housing references were amended and abbreviated, focusing on the current capacity position as identified in the Council’s Strategic Housing Land Availability Assessment, as follows:</u></u></p> <table border="1" data-bbox="645 751 1630 1050"> <thead> <tr> <th data-bbox="645 751 810 916"><u>Area</u></th> <th data-bbox="810 751 972 916"><u>Sites with Planning Permission April 2012</u></th> <th data-bbox="972 751 1158 916"><u>Category 1 (developable within 5 yrs)</u></th> <th data-bbox="1158 751 1330 916"><u>Category 2 (deliverable within 10 yrs)</u></th> <th data-bbox="1330 751 1514 916"><u>Category 3 (not currently developable)</u></th> <th data-bbox="1514 751 1630 916"><u>Small sites (below 0.4 HA)</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="645 916 810 1050"><u>Settlement Area 6 – Hoylelake &amp; West Kirby</u></td> <td data-bbox="810 916 972 1050"><u>62</u></td> <td data-bbox="972 916 1158 1050"><u>90</u></td> <td data-bbox="1158 916 1330 1050"><u>134</u></td> <td data-bbox="1330 916 1514 1050"><u>23</u></td> <td data-bbox="1514 916 1630 1050"><u>31</u></td> </tr> </tbody> </table>	<u>Area</u>	<u>Sites with Planning Permission April 2012</u>	<u>Category 1 (developable within 5 yrs)</u>	<u>Category 2 (deliverable within 10 yrs)</u>	<u>Category 3 (not currently developable)</u>	<u>Small sites (below 0.4 HA)</u>	<u>Settlement Area 6 – Hoylelake &amp; West Kirby</u>	<u>62</u>	<u>90</u>	<u>134</u>	<u>23</u>	<u>31</u>	<p>For the reasons set out in paragraph 6.166 of the Examiner’s report</p>
<u>Area</u>	<u>Sites with Planning Permission April 2012</u>	<u>Category 1 (developable within 5 yrs)</u>	<u>Category 2 (deliverable within 10 yrs)</u>	<u>Category 3 (not currently developable)</u>	<u>Small sites (below 0.4 HA)</u>										
<u>Settlement Area 6 – Hoylelake &amp; West Kirby</u>	<u>62</u>	<u>90</u>	<u>134</u>	<u>23</u>	<u>31</u>										

Rec No.	Examiner's recommendation	Modifications proposed (underlined text indicates the insertion of new or revised wording)	Reasons for decision
17 (e)	Delete 'The surrounding Green Belt provides very limited opportunities for major new residential schemes' on page 38, and insert a new paragraph 'As Hoylake is constrained by Green Belt future residential development will be concentrated in the existing built up area'.	<p><u>Recommendation accepted:</u> Paragraph amended to read:</p> <p><u>As Hoylake is constrained by Green Belt, future residential development will be concentrated in the existing built up area.</u> <del>The surrounding Green Belt provides very limited opportunities for major new residential schemes.</del> It will be important to ensure that all new housing proposals are well designed and that they contribute positively to the special character of Hoylake. A growing residential population must also have access to improved public facilities (i.e. schools, medical facilities, parks and so on).</p>	For the reasons set out in paragraph 6.167 of the Examiner's report
18 (a)	Delete 'All major residential proposals (i.e.10 dwellings or more)' in line 1 of Policy H2 and insert 'Proposals for residential development'.	<p><u>Recommendation accepted:</u> Deletion and insertion included in revised Policy H2 under recommendation 18(f) below.</p>	For the reasons set out in paragraph 6.171 of the Examiner's report.
18 (b)	Insert 'where appropriate' in line 2 after 'that'.	<p><u>Recommendation accepted:</u> Insertion included in revised Policy H2 under recommendation 18(f) below.</p>	For the reasons set out in paragraph 6.174 of the Examiner's report.
18 (c)	Substitute 'wider' for 'whole' in line 2.	<p><u>Recommendation accepted:</u> Insertion included in revised Policy H2 under recommendation 18(f) below.</p>	For the reasons set out in paragraph 6.175 of the Examiner's report.
18 (d)	Insert 'by providing a mix of house types, tenures and sizes' after 'community' in line 2.	<p><u>Recommendation accepted:</u> Insertion included in revised Policy H2 under recommendation 18(f) below.</p>	For the reasons set out in paragraph 6.175 of the Examiner's report.
18 (e)	Delete 'those who require' in line 3.	<p><u>Recommendation accepted:</u> Deletion included in revised Policy H2 under recommendation 18(f) below.</p>	For the reasons set out in paragraph 6.175 of the Examiner's report.

Rec No.	Examiner's recommendation	Modifications proposed ( <u>underlined</u> text indicates the insertion of new or revised wording)	Reasons for decision
18 (f)	Delete 'in Hoylake' in line 4.	<p><u>Recommendation accepted:</u></p> <p>Policy H2 amended (incorporating recommendations 18(b), 18(c), 18(d) and 18l)</p> <p><b>H2. HOUSING TYPE AND TENURE</b></p> <p><del>All major residential proposals (i.e. 10 dwellings or more)</del> <u>Proposals for residential development</u> must ensure that <u>where appropriate</u> they address the housing needs of the <del>whole-wider</del> <u>community by providing a mix of housing types, tenures and sizes</u>, including <del>those who require</del> affordable and specialist housing, based on an up-to-date assessment of housing need. <del>in Hoylake.</del></p>	For the reasons set out in paragraph 6.175 of the Examiner's report.

Rec No.	Examiner’s recommendation	Modifications proposed (underlined text indicates the insertion of new or revised wording)	Reasons for decision
19	<p><b>Delete Policy H3</b></p> <p>The Examiner considers that the policy as drafted is overly negative and conflicts with the presumption in favour of sustainable development and housing objectives in national planning policy. It would further restrict the supply of potential housing land within the Hoylake area and conflict with NDP Policy H1 which generally supports new housing development. The requirement on small scale infill schemes to demonstrate how positive social, economic or environmental benefits would be achieved (as per the flood risk ‘exception test’) might be satisfied by larger schemes but it would be extremely difficult for small sites to demonstrate wider community and other benefits. Although NPPF para 53 provides for policies which resist inappropriate development of residential gardens this is on the basis that development would cause harm to the local area. As the policy is not supported by any evidence or particular justification such as the impact of recent developments or identification of areas at risk it does not meet the Basic Conditions. (Paras 6.178-6.180 of the Examiner’s report refers)</p>	<p><u>Recommendation accepted:</u></p> <p>Policy H3 deleted as follows:</p> <p><b><del>H3. INFILL DEVELOPMENT</del></b></p> <p><b><del>Infill development of existing residential areas and the residential development of garden land, whether sub divided or not, is likely to prejudice the distinctive character of Hoylake and will not be supported unless proposals are able to demonstrate that substantial new social, economic or environmental benefits would be achieved.</del></b></p>	<p>For the reasons set out in paragraphs 6.178-6.180 of the Examiner’s report and as discussed in Appendix 1.</p>

Rec No.	Examiner's recommendation	Modifications proposed ( <u>underlined</u> text indicates the insertion of new or revised wording)	Reasons for decision
20	Delete reference to B1 use classes in Policy CL1 and insert ' <i>within the existing built up area</i> ' after 'other sites' in line 5.	<p><u>Recommendation accepted:</u> Policy C1 to be amended to read:</p> <p><b>CL1. LOCAL EMPLOYMENT DEVELOPMENT</b></p> <p>Proposals for local employment development (Use Classes <del>B1</del>, B2, B8 and sui generis) shall be subject to a sequential test, with suitable and available sites within the existing Carr Lane Industrial Estate being the sequentially most preferable. Only if there are no suitable and available sites within the Carr Lane Industrial Estate will proposals for other sites <u>within the existing built up area</u> be considered. In all cases, proposals must demonstrate that they would have no significantly adverse effect upon either the living conditions of occupants of nearby buildings with a residential use or the distinctive character of the area.</p>	For the reasons set out in paragraph 6.186 of the Examiner's report.

Rec No.	Examiner’s recommendation	Modifications proposed (underlined text indicates the insertion of new or revised wording)	Reasons for decision
21 (a)	Delete ‘subject to the strict controls upon development within the Green Belt’ in line 3 of Policy CL2 and delete the third bullet point, and make consequential changes to the accompanying text.	<p><u>Recommendation accepted:</u></p> <p>Policy CL2 to be amended to read:</p> <p><b>CL2. COMPREHENSIVE REDEVELOPMENT</b></p> <p>In the area defined as CL2 on the Proposals Map a comprehensive mixed-use redevelopment scheme, or individual proposals delivered as part of a phased masterplan approach will be permitted, <del>subject to the strict controls upon development within the Green Belt</del> and provided that:</p> <ul style="list-style-type: none"> <li>• the living conditions of existing residents would be improved; <u>and</u></li> <li>• the long term needs of businesses would be catered for, <del>and any area in need of landscape renewal would be improved.</del></li> </ul> <p>In preceding Issues and Opportunities section, third paragraph to be deleted as follows:</p> <p><del>If a new Golf Resort is created there would be an opportunity to create a new vehicular access into the Estate from Saughall Massie Road or Heron Road, thereby reducing the need for industrial traffic to travel through Hoylake. A new road would be outside the scope of the NDP to deliver but there is an opportunity to achieve landscape renewal in parts of the Green Belt surrounding the Estate – a need identified in the UDP – perhaps by the creation of a wildlife and wetland centre.</del></p>	For the reasons set out in paragraph 6.192 of the Examiner’s report.
21 (b)	Amend the Proposals Map to exclude Green Belt land from the defined policy area.	<p><u>Recommendation accepted:</u></p> <p>Map showing amended Policy boundary can be found at Appendix 2</p>	For the reasons set out in paragraph 6.191 of the Examiner’s report.

Rec No.	Examiner's recommendation	Modifications proposed (underlined text indicates the insertion of new or revised wording)	Reasons for decision
22.	<b>Delete the following notations from the Proposals Map; 'improved pedestrian and cycle connections and signage', 'enhanced vehicular and pedestrian level crossings', 'enhanced pedestrian and cycle level crossings', and 'the railway station priority', and delineate these aspirations on a separate 'Non Land Use Priorities' Map.</b>	<u>Recommendation accepted:</u> Amended Proposals Map 2 included in Appendix 3 <u>and new Map 9 Non-land use Priorities added</u>	For the reasons set out in paragraph 6.200 of the Examiner's report.
	<b>I therefore recommend that the Neighbourhood Plan should, subject to the recommended modifications, proceed to referendum.</b>	<u>Recommendation accepted:</u> The Council agrees that the Hoylake Neighbourhood Development Plan, incorporating the modifications set out in this statement, should proceed to referendum.	For the reasons set out in paragraphs 7.1-7.2 of the Examiner's report.
	<b>I therefore recommend that the Neighbourhood Plan should proceed to a Referendum based on the Neighbourhood Area as designated by the Council on 30 April 2013.</b>	<u>Recommendation accepted:</u> No modification required.	For the reasons set out in paragraphs 7.3-7.8 of the Examiner's report.

The contents page of the NDP has been updated. Consequential amendments have also made to the Basic Conditions Statement to reflect the findings of the examiner's report and the Council's proposed responses to the Examiner's recommendations relating to the proposed deletion of Policy HS4 (and the consequential re-numbering of Policies HS5 and HS6) and Policy H3.

Copies of the report of the Independent Examiner and of each of amended documents have been published on the Council's website at <http://www.wirral.gov.uk/planning-and-building/local-plans-and-planning-policy/neighbourhood-planning/hoylake> and can also be inspected at Hoylake Library; Hoylake Community Centre, and at the South Annexe of Wallasey Town Hall, during their normal opening hours.

Further information can be obtained from the Council's Forward Planning Section on 0151 691 8110 or from [forwardplanning@Wirral.gov.uk](mailto:forwardplanning@Wirral.gov.uk)

## Appendix 1

### Examiner's Recommendation 19 – NDP Policy H3. INFILL DEVELOPMENT

#### Summary of the Examiners Comments on Policy H3

The Examiner considers that the policy as drafted is overly negative and conflicts with the presumption in favour of sustainable development and housing objectives in national planning policy. It would further restrict the supply of potential housing land within the Hoylake area and conflict with NDP Policy H1 which generally supports new housing development.

The requirement on small scale infill schemes to demonstrate how positive social, economic or environmental benefits would be achieved (as per the flood risk 'exception test') might be satisfied by larger schemes but it would be extremely difficult for small sites to demonstrate wider community and other benefits.

Although NPPF para 53 provides for policies which resist inappropriate development of residential gardens this is on the basis that development would cause harm to the local area. As the policy is not supported by any evidence or particular justification such as the impact of recent developments or identification of areas at risk it does not meet the Basic Conditions. (Paras 6.178-6.180 of the Examiner's report refers)

#### Summary of the Neighbourhood Forum's Response to the Examiner's Report

This recommendation will send out a strong signal to developers, encouraging them to buy up houses with larger gardens with the specific aim of levelling the site and building more houses at a higher density. The policy is internally justified because such development would be *"likely to prejudice the distinctive character of Hoylake"*. National planning policy supports policies such as this. There is no reference to any additional evidence being required to justify a policy such as this one. Given its conformity with national policy, evidence should be required to justify not including this policy. The removal of private residential gardens from the definition of previously developed (brownfield) land is a long-established principle established by ministerial statement in 2010 of which NPPF para 53 is the latest expression, reinforced by a High Court judgment (*Dartford Borough Council v Secretary of State for Communities & Local Government (CO/4129/2015)*), which confirmed that gardens in built-up areas should continue to be treated as "undeveloped land" and NPPF para 111 which encourages the effective use of brownfield land. The Examiner's recommendation would encourage development of gardens in built up areas and would not accord with national planning policy or case law. By failing to balance NPPF para 53 with NPPF para 111 and the Dartford case, the Examiner appears to have made an error of law. He has also misdirected himself in relation to NPPF para 53 in stating that such policies should only be included *"on the basis that development would cause harm to the local area"*. In fact, NPPF para 53 reads as follows: *"Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area"*. This is how Policy H3 is justified but it does not rely solely upon NPPF para 53 for justification.

## Council Comments

The Examiner's report states that:

*"Although the NPPF enables Plans to include policies which resist inappropriate development of residential gardens (paragraph 53 refers) this is on the basis that development would cause harm to the local area." As the policy is not supported by any evidence or particular justification such as the impact of recent developments or identification of areas at risk it does not meet the basic conditions and I recommend its deletion". (para 6.180)*

The Forum believes that the Examiner has misdirected himself in relation to NPPF para 53 insofar as "...for example, where development would cause harm to the local area...", is by implication not the only basis on which planning authorities could consider the case for setting out policies to resist inappropriate development of residential gardens. However, in advising that local planning authorities "should consider the case" for setting out policies to resist inappropriate development of residential gardens, NPPF para 53 implies an element of discretion and suggests that there will normally need to be some additional justification, be it harm to the local area or some other factor and that it would not be sufficient to rely on NPPF para 53 (or para 111) alone to justify such a policy. While "the impact of recent decisions or identification of areas at risk" may not appear to be relevant when considering whether a policy meets the Basic Conditions, the Examiner is in effect highlighting other factors which in his view, should form "the case" for setting out such a policy. The Forum's view that there is no reference to any additional evidence being required to justify a policy such as H3 would have been strengthened had the words "consider the case" not been included in NPPF para 53. While it is arguable whether by merely stating that such development would be "likely to prejudice the distinctive character of Hoylake" the Plan implies that the whole of the area of Hoylake has been identified as an area of risk in Policy H3, thereby providing internal justification for the policy, the Examiner clearly believed that this statement on its own did not go far enough in "considering the case" for such a policy in line with national policy and that it had not been proved that harm would inevitably result from all infill development or that there is existing evidence of harm as a result of previous infill development permitted within the Plan area.

While the Dartford case is cited by the Forum as a matter the Examiner should have considered, the significance of the Dartford case is limited to confirming that gardens in built-up areas are excluded from the definition of brownfield land; the judge goes no further than to state that "The exclusion of residential gardens in build-up areas has a rational explanation in that "garden grabbing" is a particular (and some feel undesirable) phenomenon of built-up areas."

The Examiner's report addresses general conformity with the Strategic Policies contained in the Wirral UDP in section 5(c) of his report (paras 5.15-5.27 refer). Modifications to NDP Policies to ensure general conformity with policies in the Wirral UDP are made in section 6 of his report. Although the Examiner does not cite conflict with the UDP Strategic Policies in his reasons for recommending the deletion of H3, there could be a potential conflict between a retained Policy H3 and UDP Policy HS10 (Backland Development) which indicates that proposals for the development of between one to three dwellings behind existing dwellings and accessed by a dedicated private drive will not be permitted unless the proposal fulfils all the criteria listed in the policy (which cover access requirements and the relationship of the proposed dwellings to those existing). The development management considerations in UDP Policy HS10 which a proposal would need to satisfy, are very different from the requirement to demonstrate that substantial social economic or environmental benefits would be achieved, (which the Examiner in any event considered an onerous requirement, difficult for small scale infill schemes to meet) and it is not clear how a decision-maker considering a planning application would be able

to reconcile the requirements of the two policies. While H3 states that such development would be “likely to prejudice the distinctive character of Hoylake”, a decision-maker would potentially require specific evidence that harm would still result if a proposal complied with the UDP requirement. NPPF Para 184 states that Neighbourhood Plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies. There is a risk that if Policy H3 were retained contrary to the Examiners recommendation that there would be real difficulties in its application alongside UDP Policy HS10.

As such, the Council believes that it would be clearer for applicants and decision-makers and the general public, while ensuring that suitable safeguards remain in place, to control the impact of infill development on small existing housing plots and development within existing gardens through existing Development Plan Policy HS10 and that, on balance, the Examiner's recommendation that Policy H3 should be deleted is the correct decision.

The removal of private residential gardens from the definition of previously developed (brownfield) land will continue to apply, irrespective of the removal of H3 and UDP Policy HS4 will continue to apply to the Hoylake Neighbourhood Area.