

North East Derbyshire District Council  
WINGERWORTH NEIGHBOURHOOD PLAN

Decision Statement:  
Wingerworth Neighbourhood Plan Proceeding to Referendum

## 1 Summary

- 1.1 North East Derbyshire District Council's Cabinet determined on 11 April 2018, following an independent examination, that the Wingerworth Neighbourhood Development Plan (the Plan), as revised according to the modifications set out below, will meet the legal requirements and basic conditions as set out in legislation. The Neighbourhood Development Plan will therefore proceed to referendum on Thursday, 14th June 2018.
- 1.2 In line with Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 North East Derbyshire District Council has produced this 'Decision Statement' which sets out the Council's decision and reasons.
- 1.3 The Plan sets out a vision for the Parish and establishes the type of development needed to help sustain the community. If made, it will become part of the development plan for land use and development proposals within the Parish until 2033.
- 1.4 Following an independent examination of written representations, North East Derbyshire District Council now confirms that the Plan will proceed to a neighbourhood planning referendum subject to the modifications set out in the table below.
- 1.5 In accordance with the examiner's recommendation, the Wingerworth Neighbourhood Plan will proceed to a public referendum scheduled for Thursday, 14th June 2018.
- 1.6 This Decision Statement, along with the independent examiners report and the plan documents can be inspected:
  - at the Wingerworth Library, New Lane and Wingerworth Church Centre, Longedge Lane
  - At North East Derbyshire District Council's Offices at Mill Lane, Wingerworth between 9am – 4.30pm
  - Online on the Wingerworth Parish Neighbourhood Plan website:-  
<http://www.wingerworth.org.uk/cms>
  - Online via the Council's website:-  
<http://www.ne-derbyshire.gov.uk/index.php/resident/local-plan?accid=2>

## **2 Background**

- 2.1 On 13 January 2015 Wingerworth Parish Council submitted an application to North East Derbyshire District Council for the designation of the Parish as a Neighbourhood Area. This was confirmed on 19 March 2015 for the Wingerworth Neighbourhood Plan.
- 2.2 The Parish Council subsequently prepared the Wingerworth Draft Neighbourhood Development Plan. Consultation on the Parish's Draft Plan was held 7 August and 19 September 2016.
- 2.3 The Submission version of the Neighbourhood Plan for Wingerworth was completed and submitted to the District Council in July 2017. North East Derbyshire District Council held a 6 week consultation period on the submitted Plan from Monday 4th September to Monday 16th October 2017, in accordance with regulation 16 of the NPR.
- 2.4 An Independent Examiner was appointed in January 2018 to undertake the examination of the Submission version of the Wingerworth Neighbourhood Plan and this was completed with the final examination report sent to both the Parish Council and District Council on 23 March 2018.

## **3 Decisions and Reasons**

- 3.1 The Examiner has concluded that, with certain modifications, the Plan meets the Basic Conditions and other relevant legal requirements. The Council's Cabinet concurs with this view and has determined that the modifications set out in the table attached to this Statement are in accordance with the examiner's recommendations.
- 3.2 The local authority must consider each of the recommendations made in the Examiner's report and decide what action to take in response. The table attached to this statement sets out the examiner's recommended modifications and the Council's decisions in respect of each of them.
- 3.3 The authority is therefore satisfied that, subject to the modifications being made, the Draft Neighbourhood Plan meets the legal requirements and basic conditions as set out in legislation; thus the plan can proceed to referendum.
- 3.4 Therefore, to meet the requirements of the Localism Act 2011, a referendum which poses the question "Do you want North East Derbyshire District Council to use the Neighbourhood Plan for Wingerworth to help it decide planning applications in the neighbourhood area?" will be held in the Parish of Wingerworth on Thursday, Thursday, 14th June 2018.

Decision Statement Wingerworth Parish Neighbourhood Plan:

Table of Examiner's Recommendations, North East Derbyshire District Council's decisions and proposed amendments

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
Figure 1	In Figure 1 change references to 'Wingerworth Parish' to ' <i>Wingerworth Neighbourhood Area</i> ', and change the legend from 'Parish Boundary' to ' <i>Neighbourhood Area Boundary</i> '.	Minor change to the title of Figure 1 which refers to Wingerworth Parish rather than Wingerworth Neighbourhood Area. The Regulations specifically refer to the designation of a 'neighbourhood area' and require submitted plan proposals to be accompanied by a map identifying the area to which the plan related.	Agree	Amend according to examiner's recommendation
Section 1.1	Update Section 1.1 (What happens next) to reflect the previous procedural stages and the status of the Plan at the time the Plan is 'made'.	Recommend that reference to the remaining stages of the Plan preparation process in Section 1.1 are updated in the final version of the Plan as some of the content will no longer be relevant.	Agree	Amend according to examiner's recommendation
Section 1.2, paragraph 5	Update paragraph 5 of section 1.2 (How the Plan fits in to the Planning System) to reflect the stage reached in the preparation of the Local Plan at the time the Plan is 'made'.	Similar to above the text of paragraph 5 in Section 1.2 concerning the progress of the emerging Local Plan.	Agree	Amend according to examiner's recommendation
Page 7, paragraph 3	In paragraph 3 on page 7 insert 'in <i>North East Derbyshire.</i> ' After 'most sensitive landscapes'.	The reference to 'highest quality and most sensitive landscapes' in paragraph 3 on page 7 should be qualified as landscape quality as a relative term depending on whether specific landscapes are considered to be of national, regional or local quality.	Agree	Amend according to examiner's recommendation

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
Page 7, paragraph 7	Delete the first sentence in paragraph 5 on page 7 and the first part of the second sentence up to and including 'transformed into' and insert ' <i>There is also a longstanding mixed use allocation in the eastern part of the Parish on the site of the former Avenue Coking Plan. This is identified as a strategic development site in the emerging Local Plan for</i> '.	The reference to the Avenue site in paragraph 5 on page 7 overlooks the fact that there is a longstanding NEDLP allocation on the site which is being carried forward as a strategic proposal in the emerging Local Plan. As drafted it is implied that the site is currently being developed which is not the case. For complete accuracy reference should also be made to the fact that the site is located in the eastern part of the Parish rather than to the east of the Parish.	Agree	Amend according to examiner's recommendation
Vision and Objectives	a) Change all references to 'aims' in the Plan to 'objectives'.	The reference to 'Vision and Objectives' in the Chapter heading and on the Plan's Contents page contrasts with the reference to 'aims' in the text. I recommend changing all references to 'aims' in the Plan to 'objectives'.	Agree	Amend according to examiner's recommendation
	b) Replace the italics in Objectives One and Two with normal type face.	The use of italics in Objectives One and Two may create the impression that more weight should be afforded to these objectives although there is no reference to this in the text.		
	c) In Objective Five substitute ' <i>identified</i> ' for 'local' after 'integrated into the wider community and meets', and insert ' <i>include local housing needs</i> ' after 'housing needs'.	Objective Five refers to meeting local housing needs whereas national planning policy makes it clear that provision for new housing should be based on 'objectively assessed housing need' across the whole housing market rather than just local housing need. (NPPF paragraph 47 refers).		
	d) Delete Objective Eight	Objective Eight is wholly concerned with influencing the democratic process rather than the development and use of land.		

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
Policy W1	a) Delete 'can be demonstrated that it' in line 2 of Policy W1		Agree	Amend according to examiner's recommendation
	b) Delete criterion a)	In criterion a) no justification is provided for imposing a local needs requirement and there is no explanation as to how proposals will be assessed. This criterion should therefore be deleted.		
	c) In criterion b) insert 'a' after 'is of', and replace 'its distinctive character' with ' <i>the character of the area</i> '.	In criterion b) it is unclear what 'enhance its distinctive character' refers to and the criterion should be qualified by reference to 'the character of the neighbourhood'.		
	d) Delete criterion c)	Criterion c) is inappropriate as it potentially conflicts with the proposed allocation of a strategic development site on the former Avenue Coking Works.		
	e) In criterion d) insert ' <i>Where appropriate</i> ' before 'Retains existing important boundaries'	Not all proposals for development will affect key visual and ecological features, and there may be instances where the retention of key features is not desirable or practical. I recommend that criterion d) be qualified by reference to 'where appropriate' in order to provide a degree of flexibility.		
	f) Delete criterion g)	Criterion g) does not accurately reflect the requirement in national planning policy for development proposals to conserve and where possible enhance the significance of heritage assets.		

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
	g) In criterion h) delete 'adversely impacts' and insert ' <i>has an unacceptable adverse impact</i> '	Criterion h) would preclude any development which affects a garden space being considered acceptable since all development proposals must have some degree of adverse impact on the character of an area or the amenity of neighbouring properties. An alternative approach would be to test whether a proposal has a 'significant effect' or an 'unacceptable adverse impact'.		
	h) In criterion i) delete 'Contributes to addressing' and insert ' <i>Will not increase the likelihood of</i> ', and delete 'where relevant'	The requirement in criterion i) for proposals to positively contribute toward addressing crime and anti-social behaviour is both unreasonable and unrealistic. I agree with NEDDC that a more achievable objective would be to ensure that proposals do not increase the likelihood of crime and anti-social behaviour.		
	i) In criterion j) delete 'severe' and insert ' <i>adverse</i> '.	For consistency reference to 'severe impact' in criterion j) should be changed to 'adverse impact'.		
	j) Incorporate an explanation in the supporting text about the role of Policy W1 as an overarching policy, with more detailed guidance on specific requirements such as design provided in other policies, and clarifying that planning applications will be considered against all relevant policies in the Plan.	I recommend incorporating an explanation in the supporting text about the relationship between Policy W1 and other policies, which also refers to the fact that applications for development will be considered against all relevant policies in the Plan.  A change is required to remove an inconsistency between the relatively negative policy wording which requires proposals to demonstrate how they satisfy various criteria and the wording in the last paragraph of the supporting text on page 12 which refers to proposals that support sustainable		

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
		development being 'viewed positively', in line with national planning policy.		
Policy W2	Delete 'requires' in line 3 of Policy W2 and insert ' <i>is appropriate in</i> '.	Since there is no definition of development which requires a rural location in national planning policy I also recommend changing the reference in the policy to 'development proposals .....which requires a rural location' to 'development proposals..... which are appropriate in a rural location'.	Agree	Amend according to examiner's recommendation
Policy W3 and supporting text  Policy W4	a) Delete paragraphs 10 and 11 in section 4.2.1	There is no justification in paragraph 10 of section 4.2.1 for regarding the draft Local Plan housing requirement housing requirement as a maximum figure and no evidence is provided regarding infrastructure. This also contradicts the reference in the policy wording to supporting the 'development of a minimum of 882 dwellings'.	Agree	Amend according to examiner's recommendation
b) Insert an additional paragraph in section 4.2.1 explaining that as the Plan is relying on the Local Plan to establish the scale and distribution of future housing growth no allocations are proposed, and acknowledging that the housing requirement and sites identified in the emerging Local Plan may change prior to its adoption.	I am not convinced that an early review of the Plan, as suggested in Section 4.2.1 (Housing Growth), would be an appropriate solution since there is no certainty over the timing of such a review, which may in any case simply replicate Local Plan policy.			
c) Delete the first part of Policy W3 as far as and including '....identified by the Plan' in line 6.	The housing target could change as a result of more up to date evidence and the none delivery of existing permissions or viability issues may necessitate the allocation of additional			

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
		or alternative sites. It is inappropriate to anticipate which sites may be allocated in the adopted Plan.		
	d) Delete 'only' in the last sentence of Policy W3, insert ' <i>on sites allocated in the Local Plan or on infill sites and other windfall sites with the defined Settlement Development Limits</i> ' after 'be supported' and delete 'where it is small scale windfall development'.	There is no justification for restricting the scale of acceptable windfall development, and no definition of 'small scale' is provided.		
	e) In the first paragraph in section 4.2.2 replace 'is small' in line 1 with ' <i>includes</i> ', replace 'normally' in line 4 with 'often', and delete the sentence in line 5 beginning 'However, only in exceptional circumstances....'.	Policy W3 conflicts with Policy W1 (Wingerworth Settlement Development Limit) and Policy W2 (Development in the Countryside) which do not in principle support development outside settlement development limits whereas there is no such restriction in Policy W3. Consequential changes are required to section 4.2.2 to clarify that infill developments are a type of 'windfall', to remove the inaccurate explanation that sites of ten dwellings or more may only come forward if they allocated in a Local Plan. The requirement for infill development to help meet a local need in the second paragraph of section 4.2.2 is also contrary to national planning policy as pointed out by RPS, and should be removed.		
	f) In the second paragraph in 4.2.2 delete 'helps meet a local need and' in line 3.			
	g) In the third paragraph in section 4.2.2 replace 'Policies W2 and W4' with 'Policy W2'.			
	h) Delete Policy W4	There is a degree of duplication between policy W3 and Policy W4. I recommend that the remaining part of Policy W3		



Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
		(as recommended to be amended) is combined with Policy W4, subject to removing the references to 'small' sites.		
Policy W5	a) Delete 'specifically taking into account, identified local needs in Wingerworth Parish and other site' in line 2 of Policy W5 and insert, ' <i>taking into account the most up to date assessment of housing need, site characteristics, viability</i> '.	The policy wording ignores the requirement in national planning policy for new housing provision to be based on 'objectively assessed housing need' across the whole housing market rather than just local housing need. (NPPF paragraph 47). The recommended change to address this point takes into account additional concerns raised by NEDDC and Gladman Developments that in order to fully reflect national planning policy development proposals should also be considered in relation to the most up to date evidence on housing need and viability.	Agree	Amend according to examiner's recommendation
	b) Insert ' <i>particularly</i> ' after 'older people will be' in line 5.	I recommend a change to the policy wording to clarify that the reference to 'supporting proposals for smaller dwellings' is not intended to restrict the provision of larger dwellings.		
Policy W6	Delete Policy W6 (Affordable Housing) and amend section 4.2.4 to clarify that proposals for new housing are currently determined by NEDDC on the basis of 'saved' NEDLP affordable housing policies and explain that these are intended to be replaced by new mechanisms and thresholds for securing affordable housing in the emerging Local Plan.	The policy conflicts with NEDLP Policy H6 (Affordable Housing Provision in the Main Settlements) by lowering the number of dwellings which trigger the provision of affordable housing from 15 dwellings to 10 dwellings. The first part of the policy does not provide a practical basis for considering development proposals. The remainder of the policy strays into areas beyond the scope of the Neighbourhood Plan. I recommend the policy be deleted.	Agree	Amend according to examiner's recommendation

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
		For clarification, while it is not necessary to delete the supporting text in section 4.2.4 this should be amended to ensure an accurate account of the operation of current and proposed higher tier affordable housing policy is provided.		
Policy W7	<p>a) Replace 'following discussions' with '<i>including through discussions</i>' in line 3 of Policy W7.</p> <p>b) Replace 'and/or' with '<i>or</i>' in line 4.</p> <p>c) Insert '<i>for a shop use</i>' after 'has been actively marketed' in line 5 and delete 'for shopping purposes'.</p>	I agree with NEDDC that the policy wording is ambiguous and should be tightened up to clarify how discussions with the Parish Council are intended to take place in order to inform the decision making process, and to further clarify what is meant by the phrase 'shopping purposes'.	Agree	Amend according to examiner's recommendation
Policy W8	<p>a) Replace 'after discussions' with '<i>including through discussions</i>' in line 3 of Policy W8</p> <p>b) Delete 'have been identified as being' in line 6 and insert '<i>as identified on the Proposals Map are considered to be</i>'.</p> <p>c) Delete 'Batemans Mill, Barley Mow, Smithy Pond and the Wingerworth Public Houses' from the list of community facilities identified in the Policy.</p> <p>d) Identify the community facilities listed in the policy on a proposals map (or maps) at</p>	<p>I agree with NEDDC that it is inappropriate to include four public house premises in the Policy as this may interfere with their commercial operation. Whether or not one (or more) of the premises qualifies as an Asset of Community Value is a separate matter outside the scope of the Neighbourhood Plan.</p> <p>A further change to Policy W8 is required to clarify how discussions with the Parish Council are intended to take place in order to inform the decision making process, consistent with the recommended change to Policy W7 above.</p> <p>No changes are required to Policy W9 which satisfies the Basic Conditions without modification.</p>	Agree	Amend according to examiner's recommendation

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
	a scale which clearly identifies building footprints and site boundaries.			
Policy W11	<p>a) Delete the first sentence in Policy W11 and incorporate the proposed Parish Council actions in the supporting text.</p> <p>b) Replace 'their' with 'the' in line 3 and insert '<i>of a registered Asset of Community Value</i>' after 'longevity'.</p>	I recommend deleting the first sentence of Policy W11 and incorporating this in the supporting text, as the intention to support the listing of Assets of Community value (by NEDDC) is aspirational in nature and relates to a proposed action on the part of the Parish Council rather than a policy to control the use or development of land, as is the intention to support the longevity of registered Assets. Consequential changes are required to the second part of the policy in order to ensure this makes sense.	Agree	Amend according to examiner's recommendation
Policy W10	<p>a) Replace 'must address' with '<i>should take into account</i>' in line 1 of Policy W10</p> <p>b) Delete 'following consultation with Wingerworth Parish Council' in line 5</p> <p>c) Delete the last sentence of the Policy</p>	<p>The policy implies that development proposals might be expected to address existing deficiencies in the provision of services and facilities. This was referred to by Rippon Homes in their response to the Regulation 16 Publicity. As this is an unreasonable requirement I therefore recommend that these references are removed from the Policy.</p> <p>The reference to consultation with the Parish Council in the Policy is also superfluous as the Parish Council is a statutory consultee on planning applications.</p>	Agree	Amend according to examiner's recommendation
Policy W12	<p>a) Replace 'a significant' with '<i>an unacceptable</i>' in line 1 of Policy W12</p> <p>b) insert '<i>mainly</i>' after 'a site or building' in line 2</p>	<p>I recommend changing 'a significant adverse effect' in line 1 of the policy to 'an unacceptable adverse effect' to ensure consistent phraseology throughout the Plan.</p> <p>NEDDC suggest that a more detailed explanation of the phrase 'has been actively marketed' should be included and</p>	Agree	Amend according to examiner's recommendation

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
	<p>c) Delete 'following consultation with the Parish Council' in line 3</p> <p>d) Incorporate an explanation in the supporting text that 'actively marketed' means that all reasonable steps have been taken to let or sell the site or premises for employment purposes for a period of at least 6 months.</p>	<p>to avoid unintentional restrictions on premises with ancillary employment uses. I agree that a more detailed explanation could be provided in the supporting text. The exclusion of ancillary employment uses would also ensure that the policy provides a more practical basis for managing future development proposals.</p> <p>The reference to consultation with the Parish Council in the Policy is also superfluous as the Parish Council is a statutory consultee on planning applications.</p>		
Policy W13 & W14	<p>a) Delete the first and third sentences in Policy W14</p> <p>b) Combine the remaining part of Policy W14 with Policy W13 to create a new Policy entitled 'Heritage Assets' as follows <i>'Development proposals, including renovations or other alterations, must be sensitively designed to preserve and where possible enhance the significance of the heritage asset affected by the development in a manner appropriate to its significance. Proposals which enhance the longevity and appreciation of listed buildings and scheduled monuments will be particularly supported.'</i></p> <p>c) Incorporate a cross reference in the supporting text to explain that proposals</p>	<p>The management of other heritage assets which do not qualify for conservation area or listed building status (designated assets), as referred to in Policy W14, are an important element of the heritage protection system.</p> <p>The policies are not fully in line with national planning policy and contain elements of ambiguity.</p> <p>Policy W14 requires development proposals to conserve and where possible enhance the significance and setting of non-designated heritage assets there is no such requirement in Policy W13 which has a much less ambitious objective of supporting proposals which 'enhance the conservation, longevity and appreciation of listed buildings and scheduled monuments'.</p> <p>Modification is required to clarify that the level of protection afforded to heritage assets should be appropriate to their significance. This can be achieved by combining the policies while retaining the reference in Policy W13 to supporting</p>	Agree	Amend according to examiner's recommendation

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
	<p>affective designated heritage assets are required to be considered on the basis of whether development would 'lead to substantial harm' to the significance of the asset, as referred to in paragraph 133 of the NPPF, and that in considering the effect of a proposal on the significance of a non designated asset decision makers are required to balance the scale of any harm or loss with the significance of the heritage asset. Delete the final sentence of the policy.</p>	<p>proposals which enhance the longevity and appreciation of designated heritage assets. A consequential cross reference is required in the supporting text to explain that proposals affecting designated heritage assets are required to be considered on the basis of whether development would 'lead to substantial harm' to the significance of the asset.</p> <p>I also recommend deleting the first and third sentences of Policy W14, and incorporating the text in the supporting text, as the intention to support the preparation of a 'Local List' by North East Derbyshire District Council is aspirational in nature and relates to a proposed action on the part of the Parish Council rather than a policy to control the use or development of land.</p>		
	<p>d) Replace the second sentence in section 4.5.1 with '<i>Currently designated heritage assets in the Parish are listed in Table 1 and identified in Figure 4</i>'.</p>	<p>Figure 4 should be cross referenced to Table 1 and the text should clarify that the buildings and structures identified relate to those currently listed, since the policy would also apply to any buildings listed in the future.</p>		
	<p>e) Delete paragraph 2 in section 4.5.1</p>	<p>The second paragraph in section 4.5.1 should be deleted since, as pointed out by Derbyshire County Council, the statement that there are no buildings at risk is erroneous as Historic England's Heritage at Risk Register only includes Grade I and Grade II* buildings, and Grade II listed places of worship.</p>		
	<p>f) Number individual buildings and structures listed in Table 1, identify them in</p>	<p>Figure 4 is included for information only however, it is not very legible. In order to ensure that individual buildings and</p>		

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
	Figure 4 using the same numbering, and enlarge Figure 4 so it is more legible	structures are more easily identifiable it should be enlarged and individual buildings and structures should be numbered to correspond with the numbering in Table 1.		
	g) Replace the references to Type I, Type II and Type II* listed buildings in Figure 4 with reference to ' <i>Grade I, Grade II and Grade II* listed buildings</i> '.	The legend (of Figure 4) should refer to Grade I, Grade II and Grade II* listed buildings rather than Type I, Type II and Type II*.		
Policy W15	a) Delete the first sentence in Policy W15 and incorporate the second and third sentences from the first paragraph of the policy as individual criteria in the second part of the policy (see below).	<p>As drafted the policy wording is confusing and repetitious.</p> <p>A number of considerations referred to in the first part of the policy (but not all) such as the scale and massing of development are repeated in the detailed design considerations set out in the second part of the policy. There are also numerous overlapping references to local distinctiveness and local character throughout the policy.</p> <p>The modifications are intended to simplify and strengthen the policy wording, eliminate duplication and correct a number of grammatical errors, particularly those created by the structure of the second part of the policy. In addition as the policy heading refers to 'design principles' there is no need to repeat this in the policy wording.</p> <p>Further modification is recommended in order to future proof the requirement in the policy for proposals to have</p>	Agree	Amend according to examiner's recommendation
b) Delete 'have regard to the following design principles' at the end of the first sentence in the second part of the policy				
c) Delete 'should' at the beginning of criterion a) and replace 'distinctiveness, development proposals should show clearly how the general character, layout' with ' <i>character and show how the layout, materials</i> '.				
d) Delete 'should generally' at the beginning of criterion b) and insert				

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
	<p><i>'density, massing, height'</i> after 'be of a scale'.</p> <p>e) Delete 'should generally' at the beginning of criterion c)</p> <p>f) Delete 'buildings and extensions to existing buildings should' at the beginning of criterion d)</p> <p>g) Delete 'It should' at the beginning of the second sentence in the first paragraph of the policy and insert the remainder of the sentence as a new criterion after criterion d)</p> <p>h) Delete 'development proposals should' after 'Where appropriate' in the third sentence in the first paragraph of the policy and insert the remainder of the sentence as a new criterion.</p> <p>i) Delete 'Successful Places: A Guide to Sustainable Housing Layout and Design' in criterion e) after 'Have regard to' and insert '<i>the most up to date approved guidance on layout and design relevant to North East Derbyshire</i>'.</p>	<p>regard to published guidance on layout and design by referring to the latest guidance which is relevant to the local area rather than the current 'Guide to Layout and design' which may be superseded.</p>		

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
Policy W16	a) In line one of Policy W16 replace 'that' with ' <i>should</i> ', replace 'or' with ' <i>and</i> ', insert ' <i>including locally important UK Biodiversity Action Plan priority sites and habitats, ecological networks and Local Wildlife Sites</i> ' after 'enhance biodiversity' and delete the remainder of the first sentence.	The policy wording is confusing and repetitious with the policy intention to 'conserve and enhance' biodiversity is also referred to as the 'preservation of biodiversity' and the 'protection of biodiversity'. The intention to 'encourage' the conservation and enhancement of biodiversity in the first part of the policy is also a relatively weak aspiration in comparison with the requirement in the third sentence for proposals to avoid or mitigate the loss of biodiversity.	Agree	Amend according to examiner's recommendation
	b) In line three replace 'should' with ' <i>that</i> ', replace 'preservation' with ' <i>the</i> ', replace 'and recreation' with ' <i>and/or recreational use of biodiversity sites</i> ', delete 'locally important priority sites and habitats, ecological networks (including Local Wildlife Sites and )' and insert ' <i>or</i> ', and replace 'where applicable' with ' <i>will be supported</i> '.	Parts of the policy add nothing to existing national planning policy and legislation. The third sentence repeats virtually word for word one of the principles established in paragraph 118 (bullet point one) of the NPPF which local planning authorities must take into account when determining planning applications.  The policy does not adequately reflect the distinction made in national planning policy between the hierarchy of international, national and locally designated wildlife sites, and the desirability of protecting individual sites in a way that is commensurate with their status (NPPF paragraph 113). The reference to nationally identified sites in line 9 is superfluous since there are no nationally significant sites within the Neighbourhood Area.		
	c) Replace the third sentence with ' <i>Where adverse impacts on locally important biodiversity sites cannot be avoided proposals that do not mitigate, or as a last resort, compensate for the loss of biodiversity value will not be permitted</i> '.			
	d) Delete the fourth sentence in Policy W16 and incorporate the text in the accompanying justification.	The modifications are intended to rationalise the policy and strengthen the policy wording, eliminate duplication and reduce the amount of repetition of national planning policy and legislation.		



Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
Policy W17	<p>a) Replace 'Where trees are to be felled' in line 6 of Policy W17 with '<i>Where the loss of trees is unavoidable</i>'</p> <p>b) Delete the last sentence and incorporate this guidance in the supporting text.</p>	<p>The final sentence of the Policy provides an observation rather than a policy direction. I recommend that this part of the policy be incorporated in the supporting text as guidance, particularly since no evidence or information is provided regarding the location of individual trees or groups of trees. I agree with NEDDC that the reference to 'Where trees are to be felled' in the policy is an inappropriate expression and should be replaced with more precise terminology.</p>	Agree	Amend according to examiner's recommendation
Policy W18	<p>a) Replace 'respect, and where possible, enhance the open' with '<i>take account of the visual significance of the important</i>' in line 1 of Policy W18</p> <p>b) Replace 'identified' with '<i>listed</i>' in line 2</p> <p>c) Insert '<i>and ensure that the impact of development on these views and vistas is carefully controlled</i>' after 'in Figure 7' in line 2</p> <p>d) Replace the bullet points in the second part of the policy with the following</p> <ol style="list-style-type: none"> <li>1. '<i>108 degree views south west from the junction of Swathick Lane with Hill Top Road</i></li> <li>2. '<i>Views north along Chartwell Avenue</i></li> <li>3. '<i>Views north from Longedge Lane</i></li> </ol>	<p>In considering whether this policy satisfies the Basic Conditions I have taken into account concerns raised by Gladman Developments, Anwyl Land and NEDDC. The issues raised by this policy may be resolved by simplifying the descriptions provided in the policy wording and incorporating this descriptive material in the supporting text.</p> <p>The scope of the policy is limited to ensuring that new development takes account of the visual significance of important views, rather than to constrain development and development which is acceptable in principle should be appropriately designed. The reference to 'respecting views and vistas' in the policy wording should be expanded to clarify that development will be required to take account of their visual significance as well as to ensure that the visual impact is controlled. It is not reasonable to expect development proposals to enhance existing views and vistas.</p> <p>I am satisfied, subject to the reservations described below, that the selection of important views is based on a process of</p>	Agree	Amend according to examiner's recommendation

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
	<p>4. Views south along Nethermoor Road from its junction with Birkin Lane as far as Nethermoor farm'</p>	<p>analysis and elimination (as described in Appendix B) and is proportionate and sufficiently robust to justify the choices made. This is particularly the case with those views looking north toward Chesterfield and west/south west toward the Special Landscape Area identified in the NEDLP, which are self evidently justified because of the special characteristics of the townscapes / landscapes being viewed.</p> <p>Considerations in relation to countryside views from the western end of Chartwell Avenue (View 2) do not apply to the northward looking views at the eastern end of Chartwell Avenue (View 3).</p>		
	<p>e) Incorporate the deleted text (from the four bullet points) into the supporting text, except for the reference to views west of Longedge Lane and 'as you enter the village from the A61 (one of the main gateways into the village)' in bullet point three</p>			
	<p>f) Reposition the diagrammatic arrow representing View 7 on the map in Appendix B on page 67 to a position on Nethermoor Road where there are unobstructed views of the countryside to the south and replace the photograph in Reference 4 with an appropriate photograph.</p>	<p>The diagrammatic view identified at the junction of Birkin Lane and Nethermoor Road in Figure 7 and on the map in Appendix B (View 7) should be repositioned as views of open countryside are blocked by development at this specific location.</p> <p>The fourth bullet point which erroneously refers to Nethermoor Lane should more accurately refer to the section of Nethermoor Road between Birkin lane and Nethermoor Farm in order to clarify that the policy applies to development affecting views along this section of road.</p>		
	<p>Delete View 2, View 4 and View 6 from the map in Appendix B on page 67, renumber the remaining views and replace 'Proposed Important Views and Vista' in the legend</p>	<p>I have reservations about the inclusion in the policy of those views identified diagrammatically on the map in Appendix B on page 67 (and in Figure 7) as View 2, View 4 and View 6.</p> <p>In relation to View 2, it is not appropriate to safeguard a view unless it is visible from a public highway or other publicly</p>		

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
	with ' <i>Indicative Important Views and Vistas</i> '	<p>accessible location. Similar considerations apply to the countryside west of Longedge Road (View 6) since Longedge Road is at a lower level than the adjacent land which also has a residential frontage with no public access.</p> <p>With regard to View 4, I consider the inclusion of woodland views to the east of Davids Drive is equally inappropriate since the views are restricted to glimpses of dense woodland between (and above) residential properties with no opportunities for wider landscape views.</p>		
	h) Make consequential changes to Appendix B removing reference to specific views and deleting photographs as appropriate	<p>Consequential changes are required to the second part of the policy, the supporting text and Appendix B. There are also a number of inaccuracies in the descriptions of views and vistas provided in both the Policy wording and Appendix B.</p> <p>For example Hill Top Road is incorrectly referred to as Hill Top Lane in the first bullet point in the policy, and as Langer Lane in Reference 1 in Appendix B.</p> <p>I note that photographic evidence in Appendix B (Reference 4) should be based on views available from a public highway or other publicly accessible location rather than views from private gardens (Reference 4) for the reasons stated above.</p>		
	i) Make consequential changes to Figure 7 and enlarge Figure 7	Figure 7 should be improved and the views identified should be referred to as indicative.		

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
Policy W19	<p>a) Delete Policy W19</p> <p>b) Delete paragraph 5 in section 4.6.4</p> <p>c) Insert '(as shown in Figure 8)' after 'several local green spaces' in paragraph 6</p> <p>d) Replace 'and fulfil the criteria for designation. Those sites that qualified under the criteria are outlined with justification in the accompanying Local Green Spaces Report at Appendix C', in paragraph 6 with 'As these are already protected through a combination of green belt and extant Local Plan designations (which are being carried forward through the emerging Local Plan) it is not necessary to provide an additional layer of protection through this Plan.'</p> <p>e) Change the title and legend of Figure 8 to 'Locally Important Green Spaces and Recreation Areas'</p> <p>f) Delete Appendix C.</p>	<p>While I acknowledge the desire to recognise the importance of local green space in the Plan is a laudable aspiration, since the proposed areas of Local Green Space do not fully comply with the designation criteria in national planning policy and with the accompanying Planning Practice Guidance, and/or have not been adequately justified, I have to recommend the policy be deleted in order to meet the Basic Conditions.</p> <p>Parts of the accompanying text may be retained as this highlights the importance of green spaces to the local community. However a number of changes are required in order to remove those elements of the text (and supporting Figure 8 and Appendix C) that are directly linked to Policy W19. I also recommend incorporating some additional text in order to explain why the Plan does not contain a specific policy to safeguard important green spaces.</p>	Agree	Amend according to examiner's recommendation
Policy W20	<p>a) Delete 'the Plan supports the proposed designation in the North East Derbyshire Local Plan of Local Settlement Gaps in the south of the Parish' in line 2 of Policy W20, delete 'the' after 'would erode' in line 5,</p>	<p>It is not appropriate to refer in the Policy wording 'to supporting the proposed designation of Settlement Gaps in the emerging Local Plan' as there is no certainty that this proposal will proceed to adoption.</p>	Agree	Amend according to examiner's recommendation

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
	insert <i>'the'</i> after 'settlement separation and', and replace 'this area' with <i>'individual settlements'</i> .	Consequential changes are required to maintain the readability of the policy wording, and the supporting text should also clarify that detailed boundaries will be established through the emerging Local Plan.		
	b) Replace 'Figure 7' in the second paragraph on page 40 with <i>'Figure 9'</i>	Amendment is required to correct an error in the second paragraph on page 40 which should refer to Figure 9 rather than Figure 7.		
	c) Replace 'the surrounding settlement' in paragraph 6 on page 40 with <i>'surrounding communities, and the delineation of detailed boundaries in the Local Plan'</i>			
	d) Delete 'The Local Settlement Gaps are shown in Figure 8.' In paragraph 6 on page 40, delete Figure 10 and renumber the remaining 'Figures' in the Plan.	It is not clear whether the map identifying proposed Local Plan Settlement Gaps in Figure 8 is included for information purposes or whether it is intended to support the decision making process. I recommend the removal of references to the emerging Local Plan in the policy wording and the deletion of the accompanying map in Figure 10		
Policy W21	a) Delete 'following consultation with Wingerworth Parish Council' in line 2 of Policy W21	I am satisfied both policy W21 and Policy W22 meet the Basic Conditions subject to <ul style="list-style-type: none"> <li>deleting the first paragraph in Policy W22 and incorporating the text in the supporting text,</li> </ul>	Agree	Amend according to examiner's recommendation
	b) Replace 'unacceptably severe' with <i>'unacceptable adverse'</i> in line 4			

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
	<p>c) Replace 'equestrian' with 'equestrian' in line 5</p> <p>d) Replace 'Department of Transport' with '<i>Derbyshire Constabulary</i>' in the first paragraph of 4.7.1</p> <p>e) Replace 'bisects' with '<i>dissects</i>' in the second paragraph of 4.7.1</p> <p>f) Delete the fourth sentence in the second paragraph in 4.7.1</p>	<ul style="list-style-type: none"> <li>removing the superfluous reference to consultation with the Parish Council in Policy W21 as the Parish Council is a statutory consultee on planning applications,</li> <li>replacing the reference to an 'unacceptably severe impact' in Policy W21 with an 'unacceptable adverse impact' in order to ensure consistent phraseology throughout the Plan</li> </ul> <p>There is a typographical error in the last line of Policy W21, and a number of factual inaccuracies in subsection 4.7.1. As pointed out by Rippon Homes it would be more accurate to refer to the A61 as 'dissecting' rather than 'bisecting' the Parish. Derbyshire County Council also highlight the fact that road traffic incidents are reported to Derbyshire Constabulary rather than the Department of Transport, plus the fact that Derbyshire Local Transport Plan is not a 'study' and it does not identify the A61 as one of the worst congestion points in the County.</p>		
Policy W22	Delete the first paragraph in Policy W22		Agree	Amend according to examiner's recommendation
Policy W23	Delete Policy W23 and section 4.7.2.	<p>The Policy intends to address legitimate local concerns about the impact of development on existing on-street and off-street parking, however, it is not accompanied by an explanation as to what constitutes 'adequate' parking, it does not provide a practical framework for decision making. Specific evidence would be required to justify any departure from the car parking standards most recently established</p>	Agree	Amend according to examiner's recommendation

Section in Examined Document	Examiner's Recommendation	Examiner's Reasons	Local Authority decision	Action to be taken
		<p>through the NEDLP (Policy T9 Car Parking Provision) which are set out in Appendix 4 of the NEDLP.</p> <p>I agree with NEDDC that the second part of the Policy has the potential to undermine that policy, and it therefore does not satisfy the Basic Conditions.</p>		
Policy W24	<p>a) Replace 'those' with '<i>measures</i>' in line 3 of Policy W24</p> <p>b) Replace 'the main residential areas and the Avenue Strategic Site' in line 4 with '<i>existing and future residential areas, and including development on the eastern side of the A61,</i>'</p> <p>c) Insert '<i>(and future)</i>' after 'to protect the existing' in line 10</p>	<p>Minor changes to clarify that the scope of the Policy includes safeguarding the future public rights of way network as well as the existing network and that future residential development should benefit from the provision of new or improved footpath and cycleway links.</p> <p>While it is not appropriate to refer to the Avenue Strategic Site in the Policy (as identified in the emerging Local Plan), as there is no certainty as to when or whether this proposal will form part of an adopted Plan, a more general reference to development on the eastern side of the A61 could be made instead.</p> <p>It is not clear what is being referred to in the phrase 'priority should be given to those that'. I suggest incorporating reference to '<i>measures</i>' to improve the readability of the sentence.</p>	Agree	Amend according to examiner's recommendation