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## **Report to Wirral Metropolitan Borough Council**

**by Mike Worden BA (Hons) Dip TP MRTPI and Tom Bristow BA MSc MRTPI**

Inspectors appointed by the Secretary of State

Date: 13 March 2025

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## **Report on the Examination of the Wirral Local Plan**

The Plan was submitted for examination on 26 October 2022

The examination hearings were held on the following dates in 2023:  
18, 19 April, 9, 10, 11 May, 12, 13, 14 September, 3, 4, 10, 12, 13, 17, 18, 19, 20, 31  
October, and 1, 7, 8, 9 November.

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## Abbreviations used in this report

2004 Act	Planning and Compulsory Purchase Act 2004 as amended
2012 Regulations	The Town and Country Planning (Local Planning) (England) Regulations 2012 as amended
5YHLS	5 Year Housing Land Supply
5YHLSR	5 Year Housing Land Supply Requirement
AMs	Additional Modifications
Building Regulations	The Building Regulations 2010 as amended
DCLG	Department for Communities and Local Government
dpa	dwellings per annum
dph	dwellings per hectare
DtC	Duty to Co-operate
Environmental Regulations	The Environmental Assessment of Plans and Programmes Regulations 2004 as amended
Framework	The National Planning Policy Framework published 20 July 2021
HRA	Habitats Regulations Assessment
Interim Approach	Interim Approach to Avoid and Mitigate Recreation Pressure in Wirral
LHN	Local Housing Needs methodology
MA	Masterplan Area
MMs	Main Modifications
ODA	Other Developable Areas
PMs	Policy Map Modifications
PPG	Planning Practice Guidance
RA1-RA12	Regeneration Areas 1 to 12
Regulation 18	Regulation 18 of the 2012 Regulations
Regulation 19	Regulation 19 of the 2012 Regulations
Regulation 22	Regulation 22 of the 2012 Regulations
SA	Sustainability Appraisal
SA1-SA8	Settlement Areas 1 to 8
The Council	Wirral Metropolitan Borough Council
The Plan	The Wirral Local Plan as submitted
UDP	Wirral Unitary Development Plan
Use Class	A planning use defined in schedules to the Town and Country Planning (Use Classes) Order 1987 as amended
VZ1-4	Viability Zones 1 to 4
WMS	Written Ministerial Statement

## Non-Technical Summary

This report concludes that the Wirral Local Plan provides an appropriate basis for the planning of the Metropolitan Borough Council's administrative area provided that a number of main modifications ('MMs') are made to it. The Council has requested that we recommend any MMs necessary to enable the Plan to be adopted.

Following the examination hearings, the Council prepared schedules of proposed modifications and, where necessary, carried out Sustainability Appraisal ('SA') and Habitats Regulations Assessment ('HRA') of them. The MMs were subject to consultation between 25 September and 8 November 2024. In some cases we have amended their wording relative to the versions consulted upon. We have recommended their inclusion after considering the SA and HRA work in respect of them, and all the representations made in response to consultation on them.

The MMs can be summarised as follows:

- Establishing the plan period as 2022 to 2040,
- Setting the housing requirement as a minimum of 14,400 dwellings,
- Amending policies with the aim of increasing the provision of housing related to the needs of particular groups in the community,
- Clarifying that both housing and employment requirements or provision should be expressed as minima,
- Setting clear expectations in respect of infrastructure provision, density, viability, and affordable housing provision recognising the particular history to and market circumstances in Wirral,
- Establishing a stepped trajectory for housing delivery,
- Clarifying which sources of anticipated supply may legitimately contribute towards addressing needs, including in relation to bringing empty homes back into use and anticipated delivery from various sites,
- Deleting certain sites where evidence does not justify their inclusion notably in relation to Scott's Quay, RES-RA2.1 and RES-RA2.2, and at Carr Lane, MSA-SA8.1,
- Correcting the application of various policies related to enabling or restricting development along with the areas/sites to which those policies will apply,
- Various MMs to ensure that policies focussed on managing development, including those addressing heritage assets, are consistent with national policy,
- Recommending that the plan structure and presentation is revised, reducing the number of policies and making it clear which are strategic and which are non-strategic,
- Numerous other modifications to ensure that the Plan is positively prepared, justified, effective and consistent with national policy, along with making appropriate provision for future review.

## Introduction

1. This report contains our assessment of the Wirral Local Plan (the 'Plan') in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 as amended (the '2004 Act'). It considers first whether the Plan's preparation has complied with the Duty to Co-operate ('DtC'). It then considers whether the Plan is compliant with legal requirements, including in respect of the Town and Country Planning (Local Planning) (England) Regulations 2012 as amended (the '2012 Regulations'), and whether it is sound.
2. The Plan's Regulation 19 consultation ran from 9 May to 25 July 2022. At the time of the Plan's submission for examination, the 20 July 2021 version of the National Planning Policy Framework was extant (the 'Framework'). Paragraph 35 of the Framework makes clear that, in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy. Although there have been subsequent iterations of the Framework, the basis for the examination is the 2021 version.
3. The starting point for the examination is the assumption that the Council has submitted what it considers to be a sound plan. The Plan, submitted on 26 October 2022, is the basis for our examination. That is examination document [SD1], examination documents in respect of the Plan being referenced in this report within square brackets. It is the same document as was published for consultation at Regulation 19 stage.

## Main Modifications ('MMs')

4. In accordance with section 20(7C) of the 2004 Act the Council requested that we should recommend any MMs necessary for legal compliance or to rectify matters that make the Plan unsound and thus incapable of being adopted. Our report explains why the MMs are necessary in that context, which are referenced in this report in the form **MM1**, **MM2** etc., and are set out in full in the Appendix to it.
5. The handful of modifications that the Council initially advanced at examination to the Regulation 19 version of the Plan relate principally to the correction of minor formatting errors. Those were addressed through the examination, along with various other potential modifications. Unless stated otherwise, in this report any reference to 'the Plan' is to the Plan as submitted, and any references to 'Plan policies' are to the references and titles of those policies in the Plan as submitted.
6. Following the examination hearings, the Council prepared a schedule of proposed MMs which was subject to consultation for just over 6 weeks between 25 September and 8 November 2024. Insofar as necessary the Council carried

out SA and HRA assessment of those MMs. At the same time the Council consulted on additional modifications which do not relate to legal compliance or soundness ('AMs') and on proposed changes to the Plan's policies map ('PMs').

7. We have taken account of the responses to the consultation on the MMs in coming to our conclusions in this report. As a consequence, we have made some amendments to the detailed wording of certain MMs for precision or internal consistency. None of those amendments significantly alters the content of the MMs as published for consultation, or undermines the participatory processes and SA or HRA that has been undertaken of them. Where necessary we have highlighted those amendments in this report.
8. Some AMs are inevitably within MMs for ease of understanding although they do not concern matters of legal compliance or soundness. That is notably the case where the Council has proposed amending the name of certain sites or policies to better reflect either their purpose or circumstances which have occurred over the course of the examination (including the publication of various masterplans and neighbourhood frameworks).<sup>1</sup>

## Policies Map

9. The Council must maintain an adopted policies map illustrating geographically the application of the policies in the adopted development plan. When submitting a plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, there is an online resource, the 'Submission Draft Policies Map'.
10. The policies map is not a development plan document and therefore we do not have the power to recommend MMs to it. However, a number of MMs require corresponding changes to be made to the policies map. That is notably the case in respect of where we recommend that allocations are deleted or that designations are appropriately represented.
11. There are also some instances where the geographic illustration of policies on the submitted policies map is not justified with reference to supporting evidence and changes to the policies are therefore needed. There are further occasions

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<sup>1</sup> Notably renaming 'Port Wirral, Eastham' to the 'Eastham Dock Estate' (Plan policy DKS-SA4.1, included in **MM11**), renaming 'Britannia Residential Led Mixed Use Neighbourhood' to the 'Cleveland Street Neighbourhood' (MPA-RA7.1, included in **MM14**), deleting 'Toronto Street/ Demesne Street and Borough Road East Waterside Neighbourhood' in respect of the Wallasey Town Hall Quarter (MPA-RA1.1, included in **MM14** and reflected via PM22), and reflecting that Irby Recreation Ground (LGS-SA7.16) should instead be referred to as Irby Park.

where changes are required so that the geographic illustration of the policies on 'inset' maps within the Plan and the policies map align.

12. As necessary we refer to changes to the policies map throughout this report. On adoption the Council will need to ensure that the policies map is consistent with the Plan as altered by the MMs, including that any titles are correctly shown relative to the applicable site or designation.

## Context

13. Wirral is a peninsula bounded by the Mersey to the east, the Irish Sea to the north, the Dee to the west and the boundary with Cheshire West and Chester to the south. The estuaries, foreshore and coastal waters along the peninsula are of national and international importance for nature conservation.
14. Wirral is an area of contrasts, with the densely populated and urbanised eastern side contrasting strongly with the more rural western side. The eastern side looks to the Mersey and there are docks at Birkenhead and Eastham along with current and former industrial areas. The regeneration of the former docklands and industrial areas presents significant challenges and opportunities.
15. The eastern side and particularly the Birkenhead area contains some of the poorest communities in the country, whilst the western side is made up of villages and commuter settlements and is more affluent. There is an 11 year difference in life expectancy between the most and least deprived wards in the Borough, despite them being only a few miles apart.
16. Around half of Wirral is Green Belt and there are valuable landscape and environmental areas including the sandstone ridges along both the eastern and western sides of the Borough.

## Legal compliance

17. The last adopted Borough-wide element of the development plan was the Wirral Unitary Development Plan, Including Minerals and Waste Policies (the 'UDP'). The UDP was adopted in February 2000. There have been 5 areas designated in Wirral for the purposes of preparing a neighbourhood plan: Devonshire Park, Hoylake, Leasowe, Birkenhead and Tranmere, and Birkenhead North. Neighbourhood plans for Devonshire Park and Hoylake have been made as part of the development plan. Lesser, or no, progress has been made elsewhere, as should be reflected in Plan table 3.3 via **MM4**. This Plan would replace all policies of the UDP but, by virtue of Plan policies WP3.2 and WP6.2, would maintain the approach in made neighbourhood plans.

## **Public Sector Equality Duty**

18. We have had due regard to the aims expressed in section 149(1) of the Equality Act 2010. This has included our consideration of several matters during the course of the examination including the need for traveller sites, the need for accessible and adaptable housing, and a specific issue in relation to parking provision for disabled people in relation to a proposed allocation.
19. The Plan is supported by an Equality Impact Assessment Scoping Report. That builds upon the Council's engagement, through different means, with various groups representing the perspectives of different individuals, including younger and disabled people [SD5, paragraph 3.17]. Age and disability are protected characteristics under the Equality Act 2010. There is no compelling evidence that the Plan as a whole would bear disproportionately or negatively on those with protected characteristics.

## **Assessment of Duty to Co-operate ('DtC')**

20. Section 20(5)(c) of the 2004 Act requires an assessment as to whether the Council has complied with any duty imposed on it by section 33A in respect of the Plan's preparation. The prescribed bodies in respect of the DtC are set out in Regulation 4 of the 2012 Regulations. At a fine grain level, the strategic matters identified and discussed between relevant bodies are summarised in the DtC Statement of Compliance [SGD1.1]. They include planning for housing, employment, the approach to the Green Belt, infrastructure, and habitat protection (amongst many other matters).
21. The Council engaged constructively and positively on strategic matters it identified. A list of engagement pursuant to the DtC between 2018 and 2022 is set out in the DtC Statement of Compliance [SGD1.1, page 57, appendix 2]. Further information in respect of engagement under the DtC is summarised in [M1.01]. As well as being represented through the work of the Liverpool City Region Combined Authority, Wirral is part of the left bank collaboration agreement setting out strategic objectives, responsibilities and engagement arrangements.
22. As the Plan is premised on meeting needs, there was no need under the DtC to engage with neighbouring authorities as to whether unmet needs arising in Wirral might be capable of being met elsewhere, nor were there requests from elsewhere in that respect. Whether the Plan would make suitable provision for needs is a matter of soundness rather than compliance with section 33A of the 2004 Act.

23. We are satisfied that, where necessary, the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and the DtC has therefore been met.

## **Sustainability Appraisal ('SA')**

24. SA is an iterative process of assessing the likely significant effects of a plan, required under section 19(5) of the 2004 Act.<sup>2</sup> Regulation 12(2)(b) of the Environmental Assessment of Plans and Programmes Regulations 2004 (the 'Environmental Regulations') sets out also how 'reasonable alternatives' should be reported on as part of that process.
25. More broadly, SA is relevant in the context of section 39 of the 2004 Act, i.e. the objective of contributing to the achievement of sustainable development. SA is also part of the evidence in respect of whether a plan is justified.
26. SA is, however, qualified in remit. Regulation 12(2)(b) continues that reasonable alternatives should be established 'taking into account the objectives and the geographic scope of the plan or programme'. SA does not require that the history to an area be set aside, nor that purely hypothetical scenarios are assessed. Moreover, as above, Framework paragraph 35.b) defines justified as 'an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence'.
27. Proportionality of evidence is reflected in Schedule 2 to the Environmental Regulations, paragraphs 1 and 8 referring to the legal requirement to set out 'an outline' of the contents and main objectives of the plan, and of the reasons for selecting the alternatives dealt with. Proportionality of evidence is also referenced in the PPG.<sup>3</sup>
28. Chronologically, in association with the Regulation 18 draft version of the Plan, in 2019 the Council prepared, and in 2020 consulted upon, an Interim Sustainability Appraisal. In respect of housing, the Interim Sustainability Appraisal was based on the assumption that the Plan should enable the provision of approximately 12,000 homes in total [SA1.1, paragraph 3.2.1].
29. Further SA work was undertaken via the Sustainability Appraisal Report of June 2022 in association with the Regulation 19 version of the Plan. The Sustainability Appraisal Report explains how 'the preferred approach at the latest stage (Pre-Submission) therefore identifies a supply of land for 16,322

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<sup>2</sup> PPG Reference ID: 11-018-20140306.

<sup>3</sup> PPG Reference ID: 11-009-20140306.

dwellings with a significant buffer, focussed in the urban areas (to meet identified needs of 13,360)' sic. [SD2, paragraph 5.1.2].

30. Sustainability Appraisal Report paragraph 5.1.2 continues that 'the inclusion of broad locations for growth also provides a significant buffer in supply to ensure that objectively assessed housing needs will be met. Whilst the Council is confident that its approach is realistic and appropriate, it considered it useful to re-examine what reasonable alternatives there are to the urban-focussed strategy at this stage.'
31. The figure of 13,360 homes in the Sustainability Appraisal Report is consistent with the housing requirement figure set out in paragraph 3.15 of the Plan as submitted, which also looked towards establishing what might be described as a 'buffer' of provision up to 16,322 dwellings (as referenced in Plan table 3.2), the reference to 17,750 in Plan paragraph 3.15 being an error.
32. To ensure all information related to viability and a housing trajectory was available, consultation on the Sustainability Appraisal Report was extended to a period of 11 weeks from 9 May to 25 July 2022, ensuring that there was an effective opportunity for any interested party to express their opinion with reference to Environmental Regulation 13(3). Consultation on MMs also included updated SA work which we have taken account of.
33. Housing and economic growth do not necessarily move in lockstep, nor should they. Nevertheless, housing provision was a principal focus of SA work associated with the preparation of the Plan, with comparatively lesser attention paid to economic growth or employment land provision as distinct concepts. Wirral has, however, been the focus of much economic development historically. Whilst there is still much active employment space focussed principally around the east of the Borough, there is also a challenging legacy of deindustrialisation.
34. There is evidence of what might be characterised as outflows of economically active individuals from the Borough over time, to Liverpool in particular. We note that the population change in Wirral between the censuses of 2011 and 2021 was around 400, during which period 5,266 houses were built [DSH19].<sup>4</sup> As set out subsequently there is no want of employment land in Wirral, whereas identifying appropriate opportunities for residential development is more complex. As such a predominant focus in the SA on residential development is not unreasonable.
35. Moreover, and irrespective of drawing from different methodological approaches, the 'Employment-led\_OE\_SNPP2014' annual housing figure in the

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<sup>4</sup> Monitoring years 2011/12 to 2021/22 considering 'net' rather than 'gross' figures (thereby reflecting any demolitions necessary for development).

Strategic Housing Market Update of 2021 is 785dpa [H8, table 4.4]. At that juncture the Local Housing Need methodology ('LHN') would have generated a figure of 779dpa annually. The two are fractionally different. Moreover, the Plan was informed by the Wirral Employment Land and Premises Study 2021 and the 'economic capacity' scenario on which the Plan is premised which we address subsequently. There is no critical flaw in SA work in respect of its assessment of economic implications.

36. Furthermore, both the Strategic Housing Market Update 2021 and Wirral Employment Land and Premises Study 2021 followed the Interim Sustainability Appraisal, paragraph 3.2.1 of which is that '... the Council is seeking to meet identified housing needs as calculated using the Government's standard methodology'. In our view it was reasonable in the policy and evidential context of the time that no other levels of growth were considered by the Council to be reasonable in SA work supporting the Plan.
37. At a finer grain level the Sustainability Appraisal Report considered 4 broad approaches towards accommodating growth. Those were 1A, 'urban intensification', 1B 'urban intensification (stepped approach)', 2A 'dispersed Green Belt release' and 2B, 'urban expansion'. The approach taken via the Plan as submitted reflects option 1A, the Council acknowledging that option 1B was effectively a variant of 1A rather than a distinct alternative in itself.
38. Rationally, SA alternatives 2A and 2B scored 'higher' with reference to certain issues referenced in paragraph 6, schedule 2 of the Environmental Regulations. Reflecting different market values in large part stemming from the historic pattern of development across Wirral as above, and that much of the west of the peninsula is Green Belt, simplistically development is more remunerative in the west of the Borough.
39. Development within the Green Belt via SA alternatives 2A and 2B would therefore inherently be more 'viable' and entail greater opportunity to provide affordable housing and other forms of infrastructure. Moreover, in social terms at least, development within the Green Belt would also be beneficial to the vitality and viability of settlements towards the west of Wirral.
40. We also acknowledge that there are locations within existing built-up areas that are not necessarily as accessible by public transport as locations in the west of Wirral, for example in close proximity to railway stations. We accept that the Wetland Birds Core Count, which informed the exclusion of land assessed via the Green Belt Review of 28 November 2019 [M1.07], is only a rough proxy for the ecological value of a site in that respect. The Wetland Birds Core Count will age, does not account for a site-by-site assessment, and previously developed land may be of ecological value. We also note that the Sustainability Appraisal Report accords some beneficial effect to the strategic approach in the Plan to

supporting a regeneration-led approach, and is premised on the Plan delivering in practice.

41. Planning is rarely, however, simple. Affordable housing, as defined in the Glossary at Annex 2 to the Framework, is that typically offered at a rent or price at least 20% below local market rents or value. Affordable housing is a function of local market circumstances. In that context, affordable housing in a buoyant market area may well exceed the rent or value of market housing in a depressed area (thereby being, potentially, less socially valuable). As noted above there is a particular history to the Wirral and acute differences between circumstances to the east by the River Mersey compared to the west by the Dee Estuary.
42. In that context it is not, in our view, unreasonable for SA work to have attributed spatial approach 1A some positive social effect notwithstanding viability challenges addressed principally under matter 7, and in respect of supporting a regeneration-led approach. Regeneration or intensification of previously developed land is a key objective of the Plan; paragraph 1 of schedule 2 to the Environmental Regulations setting out that SA should include 'an outline of the contents and main objectives of the plan...'.
43. Moreover, as a general rule, the assumption in SA work that development by way of urban regeneration would be more accessible as opposed to that within the Green Belt holds true. As such, it is also reasonable that SA work attributed some benefit to approach 1A in that respect, which would also serve in broad terms to limit individuals' reliance on private vehicles and associated implications in terms of emissions.
44. Similarly, the SA is not flawed because of the approach it takes to the ecological or biodiversity value of sites. Instead, it adopts a proportionate and reasonable approach drawing from a body of associated evidence, both acknowledging the potential for adverse effects of strategy 1A to various designations, but equally noting that there are 'other locally important habitats present across the Borough that overlap with weak performing Green Belt parcels' [SD2, paragraph 4.3.9].
45. It has been suggested that, in the light of SA work, the approach in the Plan should have been to release some Green Belt land. Whilst we return to that contention, that is nevertheless a matter of judgement. Moreover, one of the five purposes of the Green Belt at Framework paragraph 138.e) is to 'assist in urban regeneration, by encouraging the recycling of derelict and other urban land'. It is therefore not solely a question of economic theory as to whether the Green Belt aids regeneration.

46. In respect of SA there is a wide latitude for establishing what may constitute reasonable alternatives. Framework paragraphs 140 and 141 refer to the alteration of Green Belt boundaries only where that is fully evidenced and justified following an authority examining fully all other reasonable options for meeting its identified need.
47. Whilst the approach taken in SA work associated with the preparation of the Plan is broad, in our view it is nevertheless adequate given the nature of issues at play in Wirral. There is nothing to indicate that the body of SA work undertaken is insufficiently clear or robust, as opposed to different judgements having been reached on the basis of proportionate evidence.
48. There is also nothing before us to indicate that any procedural or legal requirements in terms of the approach to SA have not been met. As required by the Framework, the SA has addressed relevant economic, environmental and social objectives. The work undertaken via the Interim Sustainability Appraisal and Sustainability Appraisal Report has evidently informed the approach in the Local Plan, and reasonable alternatives have been considered. The approach undertaken to SA is legally adequate and has informed our assessment of the Plan in respect of soundness.

## **Habitats Regulations Assessment ('HRA')**

49. HRA is the assessment process in respect of whether a plan or project is likely to have significant effects on protected habitats sites under the provisions of the Conservation of Habitats and Species Regulations 2017 (the 'Habitat Regulations'). In relation to the Regulation 18 version of the Plan, the Council prepared an Interim Habitats Regulations Assessment [HRA1.1].<sup>5</sup> That was followed by a Habitats Regulations Assessment of 2022 [SD3]. HRA was also undertaken in respect of MMs [MOD5].<sup>6</sup>
50. The 2022 Habitats Regulations Assessment assessed the implications of the Plan, including via appropriate assessment, in relation to various European sites. Given the coastal location of Wirral, nearby ecologically sensitive sites are predominantly protected on account of the value of their habitats for various bird species reliant upon them (who may, clearly, make use of functionally linked habitat). Although not a precise correlation, ecological integrity is likely to be

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<sup>5</sup> Which took account of *People Over Wind & Sweetman v. Coillte Teoranta* (Environment – Conservation of natural habitats – Judgement) [2018] CJEU C-323/17.

<sup>6</sup> The latter following *R (on the application of Finch on behalf of the Weald Action Group) (Appellant) v Surrey County Council and others (Respondents)* [2024] UKSC 20, *European Court of Human Rights, Case of Verein Klimanseniorinnen Schweiz and Others v. Switzerland* (application no. 53600/20), 9 April 2024.

adversely affected by an increase in population, principally on account of recreational pressure.

51. In that context the 2022 Habitats Regulations Assessment set out that, until such point as the Liverpool City Region Recreation Mitigation Strategy is in place, an interim approach to avoiding adverse effects arising from additional recreational pressure would be needed. The Council's Interim Approach was published in May 2022, to which Plan policy WS5.5 relates. In brief, as elsewhere, the Interim Approach seeks to address additional recreational pressures by way of Site Access Management and Monitoring Measures and through contributions towards Strategic Alternative Natural Greenspace, the focus of the latter being at Arrowe Park [ECC27, paragraph 8.5, 3.A.].
52. Whilst Arrowe Park is already in large part publicly accessible, there is no indication in the evidence before us that additional measures related to it could not suitably off-set recreational pressures that might otherwise arise in respect of ecologically sensitive areas. The Interim Approach itself sets out potential measures that could be implemented in that regard.
53. Subject to adherence to the Interim Approach, the 2022 Habitats Regulations Assessment concluded that the Plan would not lead to adverse effects to relevant European sites and functionally linked habitats regarding recreational pressure. The 2022 Habitats Regulations Assessment also set out that a paragraph governing functionally linked habitat should feature within the Plan, as it does at paragraph 6.24.
54. There is now, however a statement of common ground with Natural England which states, amongst other things, that 'the HRA of the Wirral Local Plan (SD3) assesses impact pathways to the European sites (National Sites Network) listed in Appendix B Relevant European Sites of the HRA (SD3) and complies with the Conservation of Habitats and Species Regulations 2017 (as amended)...' [WBC029]. That statement of common ground also endorses the Interim Approach.
55. In addition to the points made above in respect of the Wetland Birds Core Count, the 2022 Habitats Regulations Assessment also notes that Natural England undertook a study of qualifying bird species making use of habitats in coastal areas of North-West England in 2021. The 2022 Habitats Regulations Assessment thereafter explains that, although not exclusively, the most important functionally linked habitats 'lie in the more rural western parts of the Borough' [SD3, paragraph 5.65]. That reinforces earlier reasoning that SA work related to the Plan was not flawed.
56. At examination the Council provided evidence of several developments which have been approved subject to Appropriate Assessment under the Habitats

Regulations in line with the Interim Approach. Both **MM12** and **MM13** were, moreover, subject to HRA.

57. More broadly suitable protection for ecology and biodiversity, including in respect of international, national and locally designated sites, are provided via the Plan, subject to MMs discussed in matter 5 of this report. Overall, we are satisfied that HRA processes have been undertaken in line with relevant legal requirements, based on suitable evidence. Likely significant effects have been appropriately assessed, and suitable mitigation has been secured through the Plan as a whole such that there would be no likely adverse effects on the integrity of European sites (either alone or in combination with other plans or projects).

### **Assessment of other aspects of legal compliance**

58. Considered holistically, the Plan would comply with the duties under section 19(1A) of the 2004 Act in respect of contributing to mitigating and adapting to climate change and under section 40 of the Natural Environment and Rural Communities Act 2006 as amended.
59. The Plan has been prepared in accordance with the Council's Local Development Scheme, the latest version of which at the time of examination hearings was dated as being effective from 8 November 2022, and an updated version approved on 12 February 2025. Although the preparation of the Plan and its supporting evidence has been extensive and there have been various opportunities for representations to be made.
60. Consultation on the Plan and the MMs was carried out in compliance with the Council's Statement of Community Involvement, including engaging via various means described therein [SD5, SD5.1]. The Council have also described how they have specifically engaged with certain representors objecting to specific aspects of the Plan [DSH04]. There is no indication other than that the Plan has been prepared in accordance with relevant consultation and publication requirements
61. The Development Plan, taken as a whole, includes policies to address the strategic priorities for the development and use of land in the local planning authority's area, and complies with all other relevant legal requirements, including in the 2004 Act and the 2012 Regulations.

### **Assessment of Soundness**

62. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, we have identified 9

main issues upon which the soundness of this Plan depends. This report deals with these main issues. Our report does not respond to every point or issue raised by representors. Nor does it refer to every policy, policy criterion, allocation or designation in the Plan.

63. Framework paragraph 16.d) sets out that plans should contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals. Paragraph 16.f) says that plans should serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant). Those provisions have informed a number of MMs.
64. There is no requirement for a plan to contain policies on all matters contained in the Framework, nor to envisage every scenario that may arise in decision-taking. Indeed, the Framework says that plans should avoid unnecessary duplication of its policies.
65. The examination did not consider the merits of any alternative or 'omission' sites. That includes where representors suggested that a site not included in the Plan should be covered by some form of protective designation, as opposed to a policy or allocation aimed at enabling development. Our approach in that respect is as the starting point for the examination is that the Council have submitted what they consider to be a sound Plan. We therefore treated representations suggesting that other sites be included as effectively challenging the soundness of the approach to site selection taken via the Plan.

## **Issue 1: Are the Plan's spatial strategy, vision, and objectives justified with reference to local circumstances and national policy?**

### **Spatial strategy**

66. To a large extent reflecting a legacy of deindustrialisation and economic inactivity to the east of the Borough, there is a marked difference in the life expectancy of residents there compared to the west of Wirral. That difference is stark, some 11 years.
67. The relative disadvantage of the east of the Borough is also expressly referenced in the Draft Birkenhead Regeneration Framework 2040 [BR1]. That document has informed the preparation of the Plan and the vision for Birkenhead in particular. The Plan's overarching approach to reducing socio-economic disparities in Wirral and the disadvantages faced by some relative to others has also informed specific policies. That is notably the case of Plan policy WS2 'Social Value', aptly described in paragraph 3.34 of the Plan as one of the 'underlying principles' of regeneration. The predominant focus of the Plan

on the east of Wirral, and the associated architecture of the spatial strategy in terms of regeneration areas, is therefore justified.

68. Allocations are skewed towards larger sites. The 3 largest site allocations, RES-RA6.2, RES-RA5.1 and RES-SA4.7 account for 4,825 dwellings, and the largest 10 for 6,640 units. We acknowledge that approach introduces some risk. If larger allocations are delayed, meeting the overall housing need will become challenging.
69. Nevertheless, the predominance of larger allocations is rational with reference to Framework paragraph 60 which sets out that 'it is important that a sufficient amount and variety of land can come forward where it is needed...'. As above, the focus of the Plan is justified in respect of regeneration and intensification around the east of the Borough, where deindustrialisation has left a legacy of larger sites.
70. However given there is inevitably a degree of risk in the bringing forward and delivery of such sites, it is necessary to modify Policy WS12 to set out the circumstances which would justify an early review of the Plan and the scope of it. Review provisions are addressed by **MM21**, which is concerned with the modifications to Policy WS12, and by **MM70** in relation to the Plan's monitoring framework. These changes are required for effectiveness.

## Vision and objectives

71. The Plan's vision principally comprises statements A to M. It is logical that there is a specific vision for Birkenhead, given the existence of the Draft Birkenhead Regeneration Framework 2040, alongside both the focus of regeneration and allocations to the east of the Borough.
72. Statement H is that 'the commuter towns and villages of the west of Wirral remain stable having experienced small scale incremental development that has allowed them to continue to thrive within a landscape protected by Green Belt designation'. The implications of the Plan's differential approach to the east and west of the Wirral is considered in part above in our assessment of SA work. In short, although there will inevitably be demographic change associated with limited growth by virtue of Green Belt policy, that element of the vision is nevertheless appropriate with reference to the purposes of the Green Belt. We note that Green Belt policy does not preclude any and all development.
73. We consider that the vision and objectives are soundly based, subject to **MM2** and **MM5** which would modify the vision time frame to 2040 to accord with the Plan period as set out in this report below. This change is required for clarity and effectiveness.

## Plan period

74. As submitted the Local Plan covered the period 2021-2037. The table included at Local Plan policy WS1.1 gives existing commitments as at April 2021. Therefore, more precisely, the Plan was designed to cover the period between 6 April 2021 and 5 April 2037. To look forward a minimum of 15 years from adoption consistent with Framework paragraph 22, and for consistency with the Draft Birkenhead Regeneration Framework 2040, however, the end date for the Plan should become 2040. In the absence of new settlements or significant extensions to existing villages and towns, there is no need for policies to be set within a vision that looks further ahead.
75. Notwithstanding 2021 Strategic Housing Market Assessment table 4.4 regarding the approach to establishing housing needs, the Plan is nonetheless effectively premised on meeting LHN. Under the 2021 Framework and standard method in the Planning Practice Guidance ('PPG'), LHN has two central components, 2014-based household projections and affordability. Affordability is expressed as a multiple of median house prices relative to median income, the 'affordability ratio'.
76. During examination hearings the latest available housing monitoring data was from the year 2022/23 and the latest affordability ratio being from 2022. Whilst housing requirements and anticipated supply are addressed subsequently, it is nevertheless rational, and necessary so that the Plan is justified based on associated evidence, that the start date or 'year 0' of the Plan should be 2022/23. **MM5** is therefore necessary for effectiveness and for consistency with national policy to make the modifications to the start and end period of the Plan to Policy WS1, as are several consequential MMs to policies throughout the Plan which reference the Plan's timeframe.

## Strategic policies

77. The Framework at paragraph 21 sets out that plans should make explicit which policies are strategic policies, which is of particular relevance to the basic conditions which neighbourhood plans must meet. As submitted the Plan was ambiguous in that respect. That would be rectified via **MM7, MM8, MM10, MM13, MM15, MM16, MM17** and **MM40** which clarify which policies are strategic and which are not. In our view the effect of those MMs draws the right line between those policies which are strategic and those which are non-strategic (and may therefore legitimately be dealt with via neighbourhood plans). These changes are necessary for consistency with national policy.

## Conclusion

78. Subject to the MMs identified above, the Plan's spatial strategy, vision and its objectives are justified with reference to local circumstances and national policy.

## Issue 2: Is the housing requirement consistent with national policy and positively prepared?

### Local Housing Needs ('LHN')

79. As above, the Plan seeks to meet LHN. At the time the Plan was submitted, applying 2014 based household projections over the relevant 10-year bracket and the affordability ratio as it then stood generated a figure of 779dpa. Were the 'current' 2014 based household projection year to move to 2023, as per the PPG,<sup>7</sup> the number of households in Wirral anticipated by that dataset would increase from 149,079 in 2023 to 155,495 in 2033. That represents an increase of approximately 640 households a year. As in data published on 2 April 2023 by the Office for National Statistics, the affordability ratio for 2022 then stood at 6.75. Combining the two inputs via the standard method results in an annual LHN figure of 750dpa.
80. The result of applying the standard method inevitably varies if different household projection time periods, or affordability ratios, are applied. In respect of the former, however, there is little difference if the 2014-based Household Projections time period runs instead from 2022 or 2024. The Office for National Statistics published a new data set in respect of affordability ratios on 25 March 2024. In that later set the affordability ratio in Wirral for 2022 was revised to 6.87, for 2023 given as 6.67. As with different 2014-based Household Projections time periods, the implications of those differential affordability ratios are negligible. In our view therefore the LHN or standard method derived figure of 750dpa is suitably accurate.
81. Taking appropriate account of demolitions is somewhat complicated given the different ways in which they have been recorded by the Council. Along with accounting for the return to use of empty homes, how demolitions are factored into calculations may have accounted for the Council's perspective at examination hearings that 873 dwellings were delivered in 2022/23, whereas only 721 are noted in Housing Delivery Test data, and 707 recorded in the Council's housing completions data elsewhere [DSH19].
82. In our view it is rational to take account of demolitions necessary to facilitate development, particularly given the focus of the Plan on increasing density. Although demolitions are losses of dwellings, those losses rationally need to be

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<sup>7</sup> PPG Reference ID: 2a-004-20201216.

added to the housing requirement figure, such that 'net' delivery is distinct from 'gross' delivery. The difference between net and gross market housing delivery previously in Wirral is set out in in the Council's Note on Affordable Housing Completions 2001-23 [DSH19].

83. The approach in the Plan, at footnote 36, is that 'an allowance of 50 dwellings each year' should be incorporated to account for demolitions. Data in that respect is set out in in the Council's Annual Monitoring Report of 2021-22 [WBC008, appendix 2, page 48]. Depending on the monitoring years considered, particularly looking further back in time, some suggested that a truer picture of demolitions would be as high as 122 annually.
84. Nevertheless, whether reference is made to the Council's Note on Affordable Housing Completions 2001-23 or to the Council's Monitoring Report for 2021-22, demolitions have declined in recent years from a high of 450 in 2002/3 to a low of 11 in 2021/22 based on the latter document. With reference to the latter document, looking over monitoring years 2017/18 to 2021/22, demolitions averaged 38 dwellings annually. That points to demolitions becoming decreasingly necessary over time, tallying with various previous initiatives in the Borough geared towards redevelopment.
85. It is, however, prudent to incorporate a greater margin than recent trends suggest. Whilst many allocations are cleared or vacant sites, the Plan envisages that a proportion of future housing delivery is by way of Other Deliverable Areas ('ODAs') which will likely result in some additional demolition. In our view accounting for a net loss of 50dpa for demolitions is therefore reasonable. 50dpa is neither as limited as recent monitoring years might suggest, but equally not as significant an issue as historically. Adding 50dpa to account for demolitions to the LHN derived figure of 750dpa gives 800dpa overall.
86. The Framework also refers to the Housing Delivery Test, principally in the context of decision-taking. On 19 December 2023 the Housing Delivery Test related to 2022 was published. As set out in the associated technical note, that referenced a trailing three-year housing requirement for Wirral in 2019/20, 2020/21 and 2021/22 of 731, 519 and 760 dwellings respectively. Relative to that 818, 565 and 631 homes were delivered in those years, fractionally over 100% of those 'required'.<sup>8</sup>
87. The Housing Delivery Test data published for 2023 on 12 December 2024 indicated only a slight slackening of delivery to 96% relative to the relevant requirement in the previous 3 monitoring years. Consequently, with reference to Framework paragraph 74.c), there is no need for a 20% buffer in respect of a 5

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<sup>8</sup> Noting that there is a slight discrepancy with [DSH19], which shows net completions during those years as only 1,969 as opposed to 2,013 in Housing Delivery Test data.

Year Housing Land Supply Requirement ('5YHLSR'), to which we will return. We note that, with reference to Framework paragraph 74.b) the Council have opted to seek to demonstrate a 10% buffer.

88. In summary, the LHN-derived housing need appropriately adjusted to account for demolitions indicates a housing need in Wirral of 800dpa. Over the 18-year Plan period that would amount to 14,400 dwellings. We note that is comparable to the overall quantum assessed via the Sustainability Appraisal Report based on a different plan period of 13,360 dwellings.

## **Divergence from LHN**

89. As with the Framework, the PPG has been revised since the start of the examination. Before the section on housing and economic needs assessment was updated on 12 December 2024, the PPG set out that 'the standard method for assessing local housing needs provides a minimum starting point in determining the number of homes needed in an area'.<sup>9</sup> That element of the PPG continued that there 'will be circumstances where it is appropriate to consider whether actual housing need is higher than the standard method indicates...', thereafter setting out a non-exhaustive list of circumstances where that may be the case.
90. Whilst the PPG in that respect focussed principally on where an upwards adjustment relative to LHN may be justified, we note that Framework paragraph 61 explains how strategic policies should be 'informed by', rather than necessarily adhere to, LHN derived needs. We have considered whether a truer reflection of future housing need in Wirral is both significantly lesser, and significantly greater, than 800dpa. We deal with those arguments in that order.
91. We do not accept that housing needs should be significantly lower than LHN, closer to the population change of around 400 recorded between the censuses of 2011 and 2021. As above, between those dates 5,266 houses were built in Wirral, during which time the affordability ratio rose. Nationally the population has also risen significantly between 2011 and 2021, as have the number of households (with which housing provision has not kept pace).
92. Although there is evidently a Borough-specific or geographic dimension to housing provision, what appears to have occurred in Wirral is demographic change associated with an ageing population and younger, economically active people leaving Wirral to seek opportunities elsewhere. To suggest that future growth should tend towards annual population change between 2011 and 2021 would effectively cast those unsustainable trends forward.

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<sup>9</sup> Reference ID: 2a-010-20201216.

93. It was suggested to us that a better reflection of housing need was significantly in excess of 800dpa. We note that the current LHN methodology under the 2024 Framework, albeit based on a fundamentally different basis of housing stock rather than 2014-based household projections, generates a housing need figure in Wirral of 1,602dpa.
94. In our view, however, taking appropriate account of demolitions concerns accurately accounting for LHN rather than diverging from it. The approach in the Plan, informed by historic trends, seeks to ensure that there is an appropriate approach to dealing with 'net' versus 'gross' housing delivery. That is an issue not expressly addressed in LHN or the standard method. Moreover even if accounting for demolitions does represent a divergence from LHN, it would be a limited divergence rather than endorsement of a significant divergence.
95. There is no compelling case for uplift beyond LHN with reference to the 2021 Framework and PPG as applicable to the examination. Moreover, insofar as relevant to this matter, the Liverpool University Study entitled 'Review of consultation submissions regarding H6 – Exploring the Computation of Housing Need in Wirral 2020', sets out that there is no clear justification for divergence having assessed housing market dynamics in Wirral relative to elsewhere [H6.1].
96. In the PPG there is a non-exhaustive list of circumstances where it may be appropriate to go higher than LHN.<sup>10</sup> Notwithstanding the Draft Birkenhead Regeneration Framework 2040, in our judgement none of those circumstances apply in this instance. Nevertheless, as above, the PPG sets out how LHN should be the starting point in respect of housing needs, rather than a limit.<sup>11</sup>
97. In our view it is therefore necessary for consistency with national policy and so that the Plan is positively prepared, to establish that the housing requirement of 14,400 is a minimum, as is reflected in **MM5** related to Plan policy WS1. Framework paragraph 82.d) sets out that, in economic terms, plans should 'be flexible enough to accommodate needs not anticipated in the plan...'. Whilst housing and economic needs do not necessarily move in lockstep, in the foregoing context the provision that the Plan seeks to make in terms of employment land should similarly be expressed as a minimum. That is also reflected in **MM5**.

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<sup>10</sup> Reference ID: 2a-010-20201216.

<sup>11</sup> Reference ID: 2a-010-20201216.

## Conclusion

98. Subject to the MMs identified above the Plan's housing requirement is consistent with national policy and positively prepared.

### **Issue 3: Is the Plan consistent with national policy in respect of providing for the housing needs of different groups in the community?**

#### **Affordable housing**

99. The most recent Strategic Housing Market Assessment of 2021 identifies the need for around 374dpa of affordable housing, which would be just below 50% of the annual housing requirement of 800dpa. However, this has underestimated affordable housing need. The Council's Draft Strategic Housing Market Assessment of 2019 found annually arising affordable housing need to be 705dpa [H1].
100. The Council confirmed at the hearing session of 13 September 2023 that the divergence between the findings of the 2019 and 2021 Strategic Housing Market Assessments resulted, principally, from taking account of the approach in the PPG, which sets out how assessing the total affordable housing supply requires identifying, amongst other things, 'the committed supply of new net affordable homes at the point of the assessment'.<sup>12</sup>
101. In that context, the 2021 Strategic Housing Market Assessment identifies that 'as at December 2020 there were 940 affordable dwellings either on site or in the pipeline for development...'. Those 940 dwellings appear not to have been known of at the time of the 2019 Draft Strategic Housing Market Assessment, and it would be legitimate to take account of them. The 2021 Strategic Housing Market Assessment further explains in relation to those dwellings that 'modelling assumes that these will be built in the next three years with annual supply of 313' [H8.1, table C.6].
102. What appears to have occurred, however, is that delivery of 313 affordable dwellings has been assumed to occur each year in perpetuity. That is incorrect as anything beyond 3 years' worth of supply of 313 affordable dwellings, 940 in total, is not committed supply. Casting an affordable housing supply of 313dpa forward in perpetuity therefore conflates supply and needs. In other words, the annual figure of 374dpa as in the 2021 Strategic Housing Market Assessment is in actuality 687dpa, which is not materially different from 705dpa.

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<sup>12</sup> Reference ID: 2a-022-20190220.

103. Evidence indicates that the overwhelming majority of affordable housing delivery in Wirral has been delivered by other means than provision of a percentage of market housing. During examination hearings the Council suggested that some 94% of affordable housing provision has been by way of direct provision, as opposed to being a component of market-led housing or contribution from it. Delivery of affordable housing is therefore unlikely to be anywhere near as low as might be assumed by the 10% or 20% thresholds set via policy WS3.3.
104. Even if a different spatial strategy would deliver a higher level of affordable homes, it would be likely to be at the expense of much needed regeneration of derelict and semi-derelict areas of the Borough. Nonetheless, for consistency with national policy in respect of seeking to meet the needs of different groups in the community, **MM10** is necessary to specify that weight should be given to schemes achieving in excess of 10% or 20% affordable housing provision in pursuit of overall affordable housing needs.

## First homes

105. Plan policy WS3.3, criterion F, relates to 'First Homes'. Paragraph 6 of the December 2023 version of the Framework refers to the WMS on 'Affordable Homes Update' of 24 May 2021 which contains policy on First Homes.<sup>13</sup> That WMS sets out that the requirement to take into account First Homes policy applies to those plans submitted for examination after 28 June 2021, or 28 December 2021 in certain circumstances, as was the case of the Wirral Local Plan. As such the 24 May 2021 WMS applies to the Plan and specifies that a minimum of 25% of all affordable housing units secured through developer contributions should be First Homes, an affordable home ownership product.
106. Plan policy WS3.3 is consistent with the 25% threshold. Criterion F to it, and supporting text at Plan paragraph 3.55 in respect of tenure split is consistent with the methodology set out in the PPG and draws from the evidence underpinning the Plan. That said, however, Framework paragraph 65 expects 10% of all homes to be available for affordable home ownership unless this would 'exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups'. For consistency with national policy in that respect **MM10** is necessary.

## Dwelling size and mix

107. We accept that certain typologies of development may, and in all likelihood will, not meet what the 2021 Strategic Housing Market Assessment identifies as a

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<sup>13</sup> Official record HCWS50.

Borough-wide 60% of need for 3 bedroom or larger properties [H.8, paragraph 6.6]. Plan Policy WS3.4 criterion I sets out a minimum expectation of 30% in that respect in Regeneration Areas.

108. In our view the expectations in terms of dwelling mix and size in policy WS3.4 are nonetheless broadly appropriate, including as a way of addressing economic outflows from Wirral over time, younger people tending to be more economically active and less likely to seek larger properties. In that context we note that the Birkenhead High Density Family Homes Study 2022 supports that such minimum provision is achievable, including by setting out house and apartment types in relation to Hamilton Park and Europa Boulevard. Housing size and mix would moreover be monitored via indicator or 'code' HM1, subject to **MM70** which relates to the Plan's monitoring framework. This change is required for effectiveness.

## Older people

109. Amidst broader needs for older people's accommodation, paragraph 3.45 of the Plan sets out that there is a need for '1,149 residential care (C2 Use Class) places'. That figure is consistent with the 2021 Strategic Housing Market Assessment. As it reflects needs to 2037 as opposed to 2040, however, as with the separate overall Use Class C3 requirement of 14,400, it should be expressed as a minimum. That would be achieved via **MM5**. This change is required so that the plan is positively prepared in this respect.

110. The PPG indicates that C2 provision may be counted in respect of C3 provision.<sup>14</sup> In our view, however, it is nonetheless a reasonable approach for the Plan to make provision for C3 and C2 separately for 2 principal reasons.

111. Firstly, we note that the Council's Monitoring Reports do not count C2 provision in terms of C3 housing supply. It would be an extensive and disproportionate exercise to extrapolate the two. Secondly, as recognised by the PPG, provision of C2 units for older people will effectively 'release' a proportion of C3 units, the Council rationally suggesting a metric of 0.58 in that respect at examination.<sup>15</sup> Accounting for that in terms of an overall housing requirement would also be complex and ambiguous, including as the 0.58 metric may change over time.

112. We acknowledge that the Plan does not make specific allocations for older persons' accommodation (with the exception of where applications related to

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<sup>14</sup> Reference ID: 68-035-20190722 and 63-016a-20190626.

<sup>15</sup> Derived from comparing the number of single person households aged over 75 relative to total households within that age bracket.

sites encompass different uses). However, various C2 schemes delivered by specialist providers have come forward in Wirral previously.

113. In that respect the Council explained during the hearing session on 13 October 2023 that an average of 32 C2 units had been delivered in the preceding 4 monitoring years. That is a relatively favourable level of delivery considered in the light of our reasoning above given the interaction of C2 and C3 provision. There is, moreover, no express requirement in the Framework to provide for allocations in respect of older people's accommodation, as opposed to provision in that respect being, as in paragraph 62, 'reflected' in planning policies. Moreover, subject to **MM5**, there is no distinction between the in-principle support accorded via the Plan to C2 provision relative to C3.
114. Whilst the Framework recognises the importance of provision in respect of housing for older people, that it necessarily either represents, or should exclude, provision of affordable housing is not expressly set out there or in the PPG. In respect of plans elsewhere brought to our attention in relation to this matter, there is no indication as to whether those policy approaches were proposed by the relevant council.
115. Moreover, subject to the incorporation of **MM10**, criterion G to policy WS3 would read that 'the provision of affordable housing may vary on a site-by-site basis taking into account evidence of local need and where appropriate the viability of the development'. Criterion G would also cross refer to Plan policy WS2, addressed via **MM9**, which sets out how viability is to be addressed in decision-taking recognising the particular context to Wirral.
116. Whilst **MM9** and **MM10** effectively place requirements upon an applicant to substantiate their position, that is no different to the general position in respect of planning applications.<sup>16</sup> In our view the provisions of policy WS2 as in **MM9** would be consistent with the approach in the PPG, including such that there would be appropriate flexibility in respect of viability over the lifetime of projects.

## **Accommodation for Gypsies, Travellers and Travelling Showpeople**

117. In the Plan as submitted the needs of travellers, now defined in the glossary to Planning Policy for Traveller Sites of 12 December 2024, are addressed by policies WS3.7 and WD9. Paragraph 3.50 of the Plan refers to those policies being based upon a Gypsy and Traveller Accommodation Assessment of September 2019, paragraph 1.3 of which explains that there 'are no sites [pitches] or yards [plots] in Wirral'.

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<sup>16</sup> Section 62(3) of the Town and Country Planning Act 1990 as amended.

118. That is in contrast to earlier work in 2014 which identified a need for 8 permanent pitches related to an extended family, who have since moved away. The Government's caravan count data, albeit a snapshot in time and notwithstanding the presence of caravans in earlier counts, verifies the absence of caravans in 2023 and 2024. No evidence of recent applications, appeals or enforcement action related to pitches for gypsies and travellers or plots for travelling showpeople has been presented.
119. There is currently no transit site provision in Wirral. There is also lack of compelling evidence for such, not only reinforced through recent caravan counts, but on account of the 'generally low numbers of unauthorised encampments' [H4, paragraph 7.32].
120. The Gypsy and Traveller Accommodation Assessment refers to interviews undertaken in May 2019. At that time 7 interviews were conducted with households 'living in bricks and mortar or on the roadside with links to Wirral, and a total of 8 stakeholder interviews...' [H4, paragraph 1.3]. That process indicated that, to 2034, a total of 10 households would meet the definition of travellers in the version of the Planning Policy for Traveller Sites published on 31 August 2015, and that 3 households would not.
121. Those findings are, however, limited for two principal reasons. Firstly the Plan, subject to **MM2**, is to run to 2040, not 2034. Secondly the 2015 Planning Policy for Traveller Sites, in respect of which individuals would not fall within the planning definition of travellers if they ceased travelling permanently, pre-dated the judgement in Smith.<sup>17</sup>
122. The judgement in Smith found the approach in the 2015 Planning Policy for Traveller Sites to be discriminatory relative to the 2012 version which did not stipulate that individuals who cease to fall within the planning definition of travellers if they ceased travelling permanently. Romani Gypsies, Irish Travellers and others are ethnic groups, with race being a protected characteristic under the Equality Act 2010. The Gypsy and Traveller Accommodation Assessment pre-dates the judgement in Smith, and is insufficiently precise to determine whether the 3 households referred to above found not to meet the planning definition of travellers in May 2019 would do so under the 2024 Planning Policy for Traveller Sites.
123. The provision of pitches relative to needs cannot easily be overstated in terms of its importance in addressing the well-documented disadvantages faced by travellers relative to others, and in positively facilitating the Gypsy and Traveller way of life. There is, however, no evidence before us indicating that existing

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<sup>17</sup> Smith v SSLUHC & Ors [2022] EWCA Civ 1391, as raised in [INSP001].

traveller households in Wirral are averse to living in bricks and mortar. There is no indication that any travellers have recently sought pitches or plots in Wirral.

124. Certain travellers with connections to Wirral interviewed as part of the Gypsy and Traveller Accommodation Assessment process are also currently living elsewhere. Those households will be of relevance to plan-making or decision-taking elsewhere. In short, notwithstanding our reasoning above, there is insufficient evidence in respect of identified need for land supply specifically for traveller pitches and/or plots for travelling showpeople with reference to 2024 Planning Policy for Traveller Sites paragraph 11.
125. As such, in principle, a criteria-based policy approach as in Plan policy WD9 is appropriate. Nevertheless, with reference to the timing of the Gypsy and Traveller Accommodation Assessment relative to the judgment in Smith, policy WD9 should make specific reference not only to development proposals but also 'provision' for traveller sites, as would be achieved via **MM45**. That recognises that, in the eventuality that need for pitches or plots emerges, provision may need to be made in order to achieve the Government's overarching aim of ensuring fair and equal treatment for travellers (for example by way of allocations or provision of public sites). This change is necessary for effectiveness and for consistency with national policy.
126. Moreover, in the Plan as submitted, policy WD9 was inconsistent with various provisions of the 2015 Planning Policy for Traveller Sites and subsequent iterations. Those inconsistencies included stipulating that traveller sites should go towards meeting 'local' need and in failing to recognise traveller sites may legitimately come forward in semi-rural or rural areas with a degree of effect on local character inherently accepted. There is furthermore no requirement within the 2024 Planning Policy for Traveller Sites that traveller sites must be within walkable distance to local services and public transport, nor that permanent sites will normally require a warden's office. Consistency with national policy in that respect would also be achieved by **MM45**.
127. **MM45** appended to this report is, however, amended from the version consulted upon. The use of the word 'evidenced' as consulted upon may be read so as to suggest that applicants need in some way to evidence their connection to the locality, whereas 'needs' would suffice. Similarly 'undue effects' as opposed to 'nuisance', which also has a statutory meaning,<sup>18</sup> is preferable in criterion 6 to policy WD9.
128. Policy WS3.7 also requires amendment to ensure that, once approved, sites are retained or replaced before alternative development. **MM10** would suitably preserve that provision which comes into being in that respect for effectiveness. Moreover, for consistency with Framework paragraph 119, the Plan should

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<sup>18</sup> The Environmental Protection Act 1990 as amended.

ensure, given the legacy of heavy industry at certain sites in Wirral in particular, that the living conditions of occupants are appropriate. That would be achieved via **MM46**.

## Self and Custom Build Housing

129. At the time of the Plan's preparation there were 304 individuals registered with the Council seeking to commission or build their own homes,<sup>19</sup> although there may be a higher demand for custom and self build in the Borough over the Plan period. Framework paragraph 62 in particular is supportive of self and custom build provision, that support is not unconditional. Given the Plan's approach to the Green Belt and individuals' expressed preferences for locations for self and custom build, the Plan rationally accepts that not all needs will likely be met in this respect.
130. Nevertheless, for consistency with Framework paragraph 62, Plan policy WS3.5 should offer in-principle support to self and custom build, as would be achieved via **MM10**. To avoid any ambiguity between 'limited infilling' in Framework paragraph 149.e) in respect of the Green Belt and the Plan's approach to supporting self and custom build infill, for consistency with national policy, **MM10** provides necessary clarity in that respect.
131. Although we accept that there may be limited opportunity to provide self or custom build in respect of certain typologies of development, it is nevertheless appropriate and proportionate for the Council to commit to working with developers to secure serviced plots in respect of larger sites. In our view, whilst it is logical to set out criteria for when such plots may be released for other forms of development via criterion L to policy WS3.5, the phrase 'fair value' in that respect is ambiguous. **MM10** would address that issue and provide a clear basis for decision-taking.

## Conclusion

132. Subject to the MMs above, the Plan would be consistent with national policy in respect of providing for the housing needs of different groups in the community.

## Issue 4: Is the plan positively prepared in respect of economic growth and infrastructure?

### Economic context

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<sup>19</sup> Under the Self Build and Custom Housebuilding Act 2014 as amended.

133. Economic growth, and the need for associated employment land, is inherently less readily quantifiable than the need for housing. Businesses and their requisite needs are many and varied. The approach in the Framework to planning for economic growth therefore differs to housing, notably that paragraph 82.b) sets out how planning policies should 'set criteria, or identify strategic sites, for local and inward investment to match the [economic] strategy and to meet anticipated needs over the plan period'.
134. Policy WS1.2 of the Plan includes allocations said to amount to 65.60ha of employment land, exceeding the 49ha recommended as the requirement to 2040 via the 2021 Wirral Employment Land and Premises Study [EE5, table 10.1]. The 2021 Wirral Employment Land and Premises Study drew on the Employment Land Options Study of 2019, which focussed on assessing sites and informing potential allocations. It also followed earlier iterations from 2017 and 2012.
135. Wirral has a close economic relationship with neighbouring authorities. The evidence referred to above is therefore set in a wider geographic, as well as broader economic, context. Various Liverpool City Region studies relate to the wider geographic context to Wirral, chief amongst them the Liverpool City Region Strategic Housing and Employment Land Market Assessment [LCR1] and a (Use Class) B8 Site Study [LCR2].
136. The 2012 Wirral Employment Land and Premises Study identified high levels of vacant floorspace at that juncture, 13.6% of industrial space and 10.1% of office space. In 2011 there was found to be 264.39ha of 'undeveloped employment land across 116 sites' [EE2.1, paragraph 2.79]. The UDP beforehand allocated some 185ha of land for employment uses. At the time of the 2017 Wirral Employment Land and Premises Study, in the 36 years period since 1980/81 a total of 311.26ha of employment land had been delivered in Wirral.
137. The 2017 Wirral Employment Land and Premises Study indicated that the employment land requirement for Wirral would be within the range of 34 to 78ha, excluding large scale B8 provision, recommending a requirement of 59.5ha in that context. Reflecting the Liverpool City Region Strategic Housing and Employment Land Market Assessment completed in 2018, the 2021 Wirral Employment Land and Premises Study summarised that 'there is a wide range calculated in the need for B2 floorspace, with it being identified as between 29 and 89ha' [EE5, paragraph 2.46].
138. Along with addressing changes to the Use Classes Order effective from 1 September 2020, allowing for greater flexibility in terms of uses and of principal relevance to town centres, the 2021 Wirral Employment Land and Premises Study reconfirmed trends evident in previous iterations. Those trends included that the rate of unemployment in those aged 16 to 64 in the Wirral was one of

the highest relative to comparable areas. The 2021 Wirral Employment Land and Premises Study also identified the persistence of significant out-commuting from the Borough.

## **Employment land**

139. The Plan is founded on an employment land requirement of 49ha, with allocations seeking to deliver 65.60ha as above. Employment needs in Wirral have often been found to fall within a range. In that context, the 2021 Wirral Employment Land and Premises Study considered 3 different scenarios for establishing future employment floorspace and associated land requirements. We address those scenarios below.
140. The 'workforce capacity' scenario indicated a requirement of 37.8ha of employment land. That scenario derives principally from projecting forward household growth derived from 2014-based household projections. That scenario translates to an increase of local employment of 2,062 full time equivalent jobs across all B Use Classes. In our view, however, the workforce capacity scenario is overly simplistic.
141. Increased housing supply has not previously resulted in Wirral's population increasing commensurately. Provision of housing and economic growth are not strongly correlated here. That must be principally attributable to the economic history of the Borough, the presence of pockets of deprivation and economic inactivity, and the Borough's relationship to other areas.
142. An alternative scenario considered was the 'market capacity' scenario, which instead projected forward historic development trends to indicate an employment land requirement of 131.2ha. That is, however, unrealistic. The market capacity scenario would perpetuate oversupply of employment land in Wirral as above, and fail to recognise the regeneration-focussed strategy of the Plan.
143. Moreover, reflecting the geography of the peninsula, the Liverpool City Region B8 Sites Study describes many sites in Wirral as outside the 'City Region's core strategic B8 market areas'. Larger scale B8 provision might also be described as more opportunistic, or alternatively less constrained to a given location than other forms of development. With that in mind, the market capacity scenario would also fail to address the skewed job density in Wirral, i.e. the number of filled jobs in an area divided by the number of working age people resident in that area. The jobs density ratio in Wirral is 0.61, the lowest in the Liverpool City Region.
144. A further alternative scenario considered via the 2021 Wirral Employment Land and Premises Study was the 'economic capacity' scenario. That scenario

focuses on testing the 'mix' of employment activity likely to occur in future years, '(for example the balance between manufacturing and professional services growth) where the Oxford Economics City Region forecasts may have missed local opportunities in certain sectors' [EE5, paragraph 8.47].

145. The economic capacity scenario also factors in committed or foreseen investment in Wirral, including in respect of the port and maritime sector, 'Port Wirral', and the Marine, Energy and Automotive Park. The economic capacity scenario therefore represents a fine-grain analysis. On balance, it is the most robust projection of likely future employment needs.
146. The economic capacity scenario arrives at a requisite employment land requirement in Wirral of 49.0ha between 2020 and 2040. That comprises 3.7ha of Use Class B1a, 20.2ha of B1b/c and B2, and 25.0ha of B8. The figure of 49.0ha is mid-range relative to the Liverpool City Region Strategic Housing and Employment Land Market Assessment.
147. We note that the forecast change in B Use Class employment under the economic capacity scenario indicates that 2,033 full time equivalent jobs would be created, which is comparable with the 2,062 figure in that respect under the workforce capacity scenario. There is some tension between those figures.
148. 2014-based Sub-National Population Projections indicate that, on account of an ageing population, the working age element of the population in Wirral is set to 'naturally' decline by some 6,660 individuals between 2021 and 2037. Of Liverpool City Region authorities, only Sefton has a higher proportion of those aged over 65.
149. Coincidentally, 'baseline' full time equivalent jobs growth in Wirral is also forecast to be 6,600 in the Liverpool City Region Strategic Housing and Employment Land Market Assessment, albeit between 2012 and 2037, [LCR1, table 14]. That is described as again, based on Oxford Economics' baseline model, taking account of the 'structure of local economies by sector, past sectoral performance and the outlook for different economic sectors in 2016' [LCR1, paragraph 6.2].
150. As noted earlier, table 4.4 of the 2021 Strategic Housing Market Assessment recommends that '+82' dwellings is needed in pursuit of economic growth. The mechanics of that +82 figure is unclear. Hypothetically if the loss of 6,660 people from the labour market due to demographic change was 'made up' by virtue of growth derived from household projections, within the terms of the 2021 Wirral Employment Land and Premises Study economic capacity scenario, the Plan would actively need to enable the provision of a further 2,033 jobs. Numerically 2,033 averaged over a period of 20 years between 2020 and 2040 is 102 annually rather than 82.

151. That the foregoing figures do not align seamlessly with one another can, however, be explained as an extension to our reasoning earlier in this report. Population, homes and economic growth are not strongly correlated in Wirral. There are high levels of economic inactivity in the Borough at present, the Liverpool City Region Strategic Housing and Employment Land Market Assessment setting out that at that juncture the economic activity rate in Wirral was 72.8%, significantly lower than both the UK rate and regional averages.
152. There is, in other words, latent economic potential within the Borough. There is also the opportunity to redress out-commuting, noting again that the 2021 Wirral Employment Land and Premises Study undertook a detailed assessment of foreseeable circumstances in Wirral. The overarching regeneration focussed strategy of the Plan seeks to redress those issues in broad terms, as does Plan policy WS2 'Social Value' specifically.
153. In the light of reviewing evidence at examination, the Council advanced an adjusted figure in terms of likely delivery from employment allocations of 59.16ha as opposed to 65.60ha as in the Plan as submitted. Although we will return to allocations, the figure of 59.16ha remains significantly above the 49.0ha requirement recommended via the 2021 Wirral Employment Land and Premises Study.
154. The figure of 59.16ha remains within the 56.7ha to 64.0ha range referred to in the Liverpool City Region Strategic Housing and Employment Land Market Assessment [LCR1, table 61]. The Council further clarified in the course of the examination that 53.05ha of allocation land is, in their view, 'cleared' and 'available now' [DSH36].
155. The foregoing is setting aside that not all employment land provision is addressed via site allocations; policy WS4.2 accords in principle support for employment land provision across broad swathes of the Wirral. In respect of land owned by the Royal Mersey Yacht Club covered by policy WS4.2, in our view that is a broad and proportionate policy coverage which inevitably cannot account for the complexity or plurality of land use in practice (and one which does not interfere with private land ownership).
156. That said, for consistency with **MM5** in respect of the Plan's housing requirement being expressed as a minimum, and to avoid any implication that the employment provision sought via the Plan reflects some form of capacity or limit, the figure of 59.16ha in the Plan should also be expressed as a minimum. That would be achieved via **MM5** and **MM11** also, for effectiveness and consistency with national policy.
157. The Plan would inevitably entail some reduction in employment land by virtue of redevelopment. However, as reflected above, historically employment land has

delivered strongly in Wirral, resulting in significant provision and high levels of vacancy. We also note that the office market in Wirral is characterised by 'an abundance of out-dated older stock' [DV1.1, paragraph 4.35]. Against that context there is no robust evidence before us that, as a whole, the Plan would result in undue loss of employment land. Any 'net' change in that respect would be captured by monitoring, particularly indicator or 'code' E1 subject to **MM70**.

## **Use Class B8 (warehouses)**

158. We have considered if additional land should be allocated for strategic or large scale B8 provision. The 2017 Wirral Employment Land and Premises Study explains at that juncture how then emerging work in relation to the Liverpool City Region Strategic Housing and Employment Land Market Assessment sought to undertake a separate site assessment including a review of sites capable of accommodating B8 warehouse/ distribution units of '9,290 sqm together with candidate sites for future allocation' [EE2.1, paragraph 2.23]. The 2017 Wirral Employment Land and Premises Study proceeded to identify potential sites for further consideration with the potential to accommodate up to 81.9ha of B8 land in Wirral [EE2.1, paragraph 2.40].
159. Large scale logistics or warehouse provision was considered in the B8 Site Report to the Liverpool City Region Strategic Housing and Employment Land Market Assessment of June 2018. That indicated that the overall level of need in the Liverpool City Region falls between a range of 308ha to 397ha to 2037 [LCR2, table 1]. The distinction between those 2 figures being whether a 'do minimum' approach to future provision is taken, or conversely whether account is taken of the Transport for the North Freight Strategy which accounts for possible areas of growth.
160. It appears that in the B8 Site Report the need for large scale warehousing provision is a function of past supply, thereby more aligned with the 2021 Wirral Employment Land and Premises Study 'market capacity' scenario. Figure 3 of the B8 Site Report maps the take up of largescale units since 2009, which are principally in an arc northward of Liverpool as opposed to within Wirral. Drawing from the 2017 Wirral Employment Land and Premises Study, the B8 Site Report proceeded to assess various sites in Wirral to which we now turn.
161. At or around the Wirral International Business Park, 3 sites were considered in the B8 Report all seemingly with the caveat that they were 'generally considered more attractive for alternative [to B8] employment uses' [LCR2, paragraph 9.3]. Of those sites land 'East of former Lubrizol/D1 Oils' by the coast, a 9.6ha former landfill site, was considered not to be commercially attractive for B8. That site is rationally allocated for residential development in the Plan via policy RES-SA4.7.

162. The 'Former MOD Tank Farm' by Old Hall Road, a previously developed site of some 8.1ha, was referred to in the B8 Sites Study as 'the most commercially attractive site for strategic B8 development'. That site was nevertheless identified as 'outside of the City Region's core strategic B8 Market Areas' [LCR2, paragraph 9.7].
163. The foregoing is the first instance in the B8 Site Report where that phrase is used, which appears to relate to the geographic spread of delivery of large-scale warehousing since 2009 represented at Figure 3 referenced above. The Former MOD Tank Farm is instead allocated for residential development via the Plan (RES-SA4.2).
164. The B8 Site Report also found the 'North Road Tank Farm', a site of 9.28ha part of the Eastham Dock Estate, to be outside the 'core strategic B8 market areas', albeit that it is allocated for 'B2/B8' development via Plan policy EMP-SA4.5.
165. The B8 Sites Study referenced as 'Centuria Business Park', formerly the site of a chemical factory again of 8.1ha, falls within the policy coverage of Plan policy WS4.2 'Designated employment areas', as opposed to being allocated specifically. Notwithstanding **MM11**, that policy encourages 'the redevelopment, renewal, intensification, or extension of existing employment sites and premises within Use Classes B2 and B8, or wider employment generating uses'. Although Centuria Business Park was identified as less commercially attractive than the Former MOD Tank Farm, in policy terms the Plan provides in-principle support for economic development there.
166. That is important as the 59.16ha the Council anticipate coming forward via employment allocations does not account for any delivery from unallocated sites. The foregoing points to the Plan's approach in respect of B8, and employment uses more generally, having some flexibility. In response to the interaction between employment allocations and sites which may come forward but which are not allocated, the Council set out at examination that there is significant headroom to exceed 59.16ha [DSH46].
167. As in the B8 Site Report, the 'Former Stone Manganese' site in Seacombe was considered more likely to come forward for smaller 'industrial/ warehouse uses commensurate with those in the surrounding area' as opposed to those for large scale B8. That site is allocated in the Plan via policy EMP-RA8.2 for 'B2/B8' development, and may therefore nevertheless contribute towards B8 provision. That is notwithstanding that the Council advanced a refined figure of 5.38ha for that site relative to 6.9ha in the B8 Report, which should be reflected via **MM29** and **MM66** for reasons set out subsequently.
168. Some 6.6ha of undeveloped land described in the B8 Sites Report as the 'Queen Elizabeth II Dock' at the Eastham Dock Estate by the Manchester Ship

Canal was referred to positively as associated with meeting the future needs arising from Port Wirral [LCR2, paragraph 9.28]. Subject to Plan policy DKS-SA4.1, it therefore forms part of the Port and Maritime Zone (as does the site covered by DKS-SA2.2 also addressed in the B8 Sites Report).

169. Although the Plan's approach to the Port and Maritime Zone is rational, in order to ensure that the Plan's approach to safeguarding land for associated development is consistent with its aims, the policy wording should be strengthened such that operations are not unacceptably prejudiced and that development in such locations requires a coastal location. That would be achieved via **MM11**, which is required for effectiveness.
170. Subject to **MM11** Plan policy WS4.3 rationally ensures safeguards in respect of the Port and Maritime Zone, reflecting the importance of that sector to the economy and the necessity of it falling close to the Mersey and existing infrastructure. That policy does not, however, prevent associated B8 use or 'related supply chain activities', which may include B8 warehouses.
171. Tranmere Oil Terminal is also part of safeguarded port-related development and infrastructure under policy WS4.3, DKS-SA2.4. Subject to that designation, and given the agent of change principle articulated through Plan policy WD21 subject to **MM54** as below, the Plan is sound without including a similar policy to that in the Cheshire West and Chester Plan in respect of the Stanlow Oil Refinery.
172. Notwithstanding the site again falling outside the City Region's core strategic B8 market, the B8 Site Report referred to land at Wallasey Bridge Road, a former industrial area to the south of West Float, as providing 'good road access to the M53 and waterfront access part of the Birkenhead Docks estate'. That site is within the Mersey Waters Enterprise Zone and being promoted as part of the Marine, Energy and Automotive Park.
173. Parts of the Wallasey Bridge Road Site, subject to **MM27**, are allocated in the Plan as sites EMP-RA6.1 to EMP-RA6.4, again for B2 and B8 uses. Land identified as 'Bidston Dock' to the west of West Float, was identified in the B8 Site Report on account of various constraints as unlikely for strategic B8, and is accordingly encompassed within Plan policy MPA-RA6.3.
174. Taking account of site assessment in Wirral, chiefly 8.1ha at Centuria Business Park, table 5 of the B8 Site Study identifies that across the Liverpool City Region 118.7ha is 'likely to come forward for strategic B8', and a total of 221.1ha for 'either strategic B2 or B8'. That is set relative to the range of forecast need of between 308ha and 397ha, resulting in a 'residual' requirement for strategic B8 across the Liverpool City Region of somewhere between 43.4ha and 141.4ha by 2037 [LCR2, paragraph 10.14].

175. In that context the Plan sets a policy approach supportive in principle of B8 provision beyond that intended to be provided by employment allocations. That is despite demand for strategic or large scale B8 falling principally elsewhere in the Liverpool City Region.

## **Alignment of employment and housing requirements**

176. As above, economic growth is inherently more challenging to forecast than population change. The Plan is consciously based on a regeneration-focussed approach, in support of which there have been numerous studies and initiatives in recent years. That said the Plan is not premised on funding to 'promote and facilitate additional growth (e.g. Housing Deals)', an example of a circumstance that may justify an upwards adjustment of a plan's housing requirement relative to LHN in the PPG.<sup>20</sup> Instead the Plan is founded on a proportionate economic strategy for the Borough recognising its history, context, and likely future trends.

177. We acknowledge that the examples given in the PPG where an uplifted housing requirement relative to LHN may be justified are non-inclusive. Nonetheless, the Plan is also not premised on strategic infrastructure improvements likely, in and of themselves, 'to drive an increase in the homes needed locally'. Instead, including with reference to our reasoning in respect of infrastructure subsequently, infrastructure requirements are a corollary of the Plan's strategy to addressing needs rather than driving further growth. The Plan is also not based on meeting unmet need from neighbouring authorities. The Plan's approaches to housing and economic growth are therefore suitably aligned based on proportionate evidence.

## **Town centres**

178. Through Plan policy WS11.1, in line with Framework paragraph 86.a), and by way of the policies map, the Plan defines a hierarchy of town, district and local centres. The Council rationally propose more accurately drawing the extent of Birkenhead town centre and primary shopping area relative to its centre of gravity (via PM20 and PM21).

179. The floorspace thresholds set at policy WS11.3 where a town centre impact assessment will be required are invariably lower than the Framework paragraph 90 threshold of 2,500sqm, rationally relating in size relative to the position of centres in the hierarchy. Those thresholds were nevertheless informed by the Wirral Retail and Centres Studies of 2019 and 2021. The former refers in various locations to high levels of vacancy, and the latter to what might fairly be

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<sup>20</sup> As referenced in PPG Reference ID: 2a-010-20201216.

described as the precariousness of various town centres in respect of retail in particular post Covid-19.

180. The function of town centre planning policy is not to prevent healthy competition. Nonetheless in Wirral even limited out of town development is liable to have a potentially significantly detrimental effect in terms of town centre vitality. In our view the thresholds set via policy WS11.3 are therefore reasonable and proportionate, although their applying to retail alone should be deleted for consistency with Framework paragraph 90 via **MM20**.
181. We have considered whether greater flexibility should exist, or an alternative approach other than policy WS4.2 should apply, at the Croft Retail Park, Tebay Retail Park and in respect of JunctionONE Retail Park.<sup>21</sup> However, in line with the approach in the Framework to ensuring the vitality of town centres, and as designated employment areas do not preclude 'wider employment generating uses', we are satisfied that the approach in the Plan is nevertheless appropriate in that respect.
182. For effectiveness, however, the Plan should clarify that services and facilities should be directed towards town centres in line with their role and function, rather than inadvertently suggesting that certain locations are only suitable for certain scales or types of associated investment. That would be achieved via **MM20**.
183. Moreover in the Plan as submitted the definition of 'main employment uses' excluded 'uses that would normally serve the general public in a town centre or other accessible, central location'. Notwithstanding the implications of Use Class E, that is unduly complex relative to the Framework's definition of main town centre uses. Consistency with national policy in that respect would be achieved via **MM11** and **MM62**, bringing the definition in appendix 1 of the Plan in line with that of the Framework.
184. Whilst the offer of each hot food takeaway differs, broadly policy WD12 'Hot Food and Drink' sets an appropriate approach to avoiding over-concentration of hot food takeaways, taking account of potential negative implications for health in line with Framework paragraph 92.c). The Hot Food Takeaway Evidence Base 2019 shows moderate correlation between the prevalence of hot food takeaways and childhood obesity. Importantly policy WD12 does not prevent the establishment of hot food takeaways within town centres, but seeks to avoid excessive numbers.
185. Amidst a high prevalence of hot food takeaways generally, The Hot Food Takeaway Evidence Base 2019 sets out how 24% are within 400m of

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<sup>21</sup> Dismissed appeal ref. APP/W4325/W/21/3282452 having brought to our attention which relates to the change of use of units for the sale of food and non-food goods at the Tebay Retail Park.

secondary schools (121 of a total of 508). There is a high prevalence in certain locations to the east of Wirral where health outcomes are worst. As such seeking to limit the prevalence of hot food takeaways close to secondary schools is a rational approach. Nevertheless, in the Plan as submitted various criteria to policy WD12 are ambiguous in terms of providing a clear basis for decision-taking in line with Framework paragraph 16.d), notably in terms of the proximity of residential uses and nature of commercial frontages. **MM48** would rectify those ambiguities for effectiveness.

186. Notwithstanding permitted development rights allowing for certain changes of use, appropriate control of residential development with reference to the vitality of town centres would be achieved by policy WS11.6 'Residential Development in Centres' as modified by **MM20**. **MM20** is necessary for consistency with Framework paragraph 16.d) to avoid the implication that town centre viability is the sole issue relevant to the assessment of residential schemes related to town centres.

## The visitor economy and tourism

187. The Plan is focussed on urban tourism which rationally aligns with the Plan's overarching strategy, but for consistency with Framework paragraph 84.c) references need to be made to rural tourism and leisure facilities. **MM11** addresses this. That would remedy that policy WS4.4 in the Plan as submitted referred solely to more limited 'visitor facilities'. We have amended **MM11** to add 'if applicable' in respect of Green Belt policy relative to the version consulted upon, in order to avoid the circumstance where policy WS4 would apply to a rural tourism facility that is not within the Green Belt.

188. For consistency with the evidence before us in respect of the HRA and Interim Approach, the promotion of urban tourism should be compatible with environmental designations. That would also be achieved via **MM11** amending the wording of policy WS4.4 in line with Framework paragraph 180.a).

## The rural economy and agriculture

189. For consistency with Framework paragraph 89, namely that the sequential approach to out of town development with reference to town centres does not apply to 'small scale rural offices or other small scale rural development', **MM20** is necessary in relation to Plan policy WS11.3. More broadly we also note that neither the approach in the Plan nor Framework prevent development within the Green Belt, as opposed to setting an approach to ensure that effects are appropriately assessed relative to its purposes.

190. There is limited agricultural land remaining in Wirral, with agriculture now reflecting a small element of the local economy. Framework paragraph 174.b) sets out how planning should recognise 'the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.' Whilst it may be relevant to consider the effects of development on the best and most versatile agricultural land in decision-taking in certain respects, express reference to considering food production at footnote 62 of the December 2023 Framework is unique to that version.
191. Policy WP8.2 seeks to 'safeguard' best and most versatile agricultural land, which is inconsistent with Framework paragraph 174.b). **MM40** would ensure that Plan policy WP8.2 is consistent with Framework paragraph 174.b) by virtue of reflecting the provisions of national policy accurately in that respect.

## Minerals and waste

192. The Plan is supported by an appropriate and proportionate evidence base in respect of minerals and waste. Amongst other details, that evidence base reflects the limited availability of viable mineral resources in Wirral. At examination the Council accepted that the mineral safeguarding area at Carr Lane, MSA-SA8.1, was no longer justified in the light of brick clay extraction there no longer being viable. As such, and in the absence of countervailing evidence, **MM59** is necessary to delete MSA-SA8.1 from the Plan for effectiveness.
193. For consistency with Framework paragraph 210, notably criterion d) regarding the encouragement of the prior extraction of minerals, **MM58** and **MM59** are necessary. That would ensure policy WM3 is consistent with the Framework. Similarly in policy WM6, to reflect the National Planning Policy for Waste published 16 October 2014, in particular as regards decision-taking in terms of waste management at section 5, paragraph 8, **MM61** is necessary for consistency with national policy.
194. **MM58** would also amend that Plan policy WM1 so as to avoid requiring applicants to demonstrate that there are no other viable sources of extraction in Wirral, an unnecessary and potentially counterproductive criterion, and to add the word 'unacceptably' in line with Framework paragraph 211. For effectiveness provision also needs to be made for consistency with work updating the Merseyside and Halton Joint Waste Local Plan, which would be achieved via **MM61**.
195. Plan policy WM4 'Oil and Gas development', is broadly consistent with Framework paragraphs 215 and 216, albeit rationally phrased with reference to

exploration and extraction related to areas benefitting from a Petroleum Development Licence which covers much of the Borough. That policy is aligned with the Framework as above and makes provision for addressing the risks of adverse impacts, noting that **MM60** is necessary for effectiveness in that respect to address the consequential renumbering of Plan policies resulting from the MMs.

## Infrastructure

196. The provision for, and ability of the market to contribute towards, the delivery of infrastructure are interlinked. Framework paragraph 20.b) sets out how strategic policies should set out an overall strategy for several matters, including making sufficient provision in respect of infrastructure, with paragraph 34 setting out how plans should set out the contributions expected from development.
197. As submitted the Plan variously refers to 'essential' and 'necessary' infrastructure. The supporting Infrastructure Delivery Plan refers instead to 'critical infrastructure', 'essential mitigation infrastructure' and 'desirable infrastructure'.
198. For consistency with Framework paragraphs 34 and 16.d), the distinction between different forms or tiers of infrastructure needs to be made clear, and by extension what development will need to contribute towards on a case-by-case basis. That would be achieved via the incorporation of **MM5** and **MM18** related to Plan policies WS1.3, WS10, WS10.1 and supporting Plan text governing infrastructure provision.
199. **MM5** would serve to clarify, in line with the Infrastructure Delivery Plan, that desirable infrastructure is that which 'may be required through local plan policies for sustainable growth and to achieve good place making but would not necessarily prevent or delay the delivery of further development'. That partially addresses any potential funding shortfall should it exist. **MM5** would also achieve consistency with Framework paragraph 57 governing where obligations may legitimately be sought. We note, moreover, that Framework paragraph 20.b) sets out how plans should set an 'overall strategy' rather than necessarily having to account for each and every source of funding throughout their lifespan.
200. In that context, and notwithstanding challenge to the availability of public subsidy, the Council clarified how 'all critical or essential infrastructure to be delivered in the first 5 years of the plan period has grant funding in place, funding bids submitted or funding that will or has already been secured through developer contributions' [M4.01, paragraph 86].

201. Consistent with our earlier reasoning, an adopted plan in itself generates some momentum and certainty as regards funding, and funding bids, that would otherwise not exist. Throughout the examination the Council has stressed that the adoption of the Local Plan would significantly increase the potential to attract funding that may not otherwise come to the Wirral. The Plan secures a strategy and planning status and in a competitive scenario where funders require certainty, and having a plan in place is crucial. We concur with this position.
202. Progress towards the Wirral Local Plan to date reinforces that in practice. At the time of the Plan's submission for examination the Council had secured some £78.5 million in respect of funding 'to deliver infrastructure to pump prime placemaking and development', which had risen to £105.4 million by October 2023 [M4.01, paragraph 67, WBC003a]. At the examination hearings a figure of around £23 million annually was referred to as being successfully obtained in recent years.
203. Moreover, as above, notwithstanding challenging viability in Wirral, housing provision has recently increased relative to historic trends. In many instances infrastructure delivery will have been negotiated on a site-by-site basis and has evidently not been so fundamental so as to forestall development.
204. Subject to **MM5** and **MM18**, in our view, the Plan sets an appropriate overall strategy towards infrastructure provision, and there is a reasonable prospect of provision in that respect that would not hinder the Plan's objectives. **MM18** refers to whether appropriate infrastructure capacity 'will exist at the point the development is to be brought into use' reflecting that permissions may be sought, and granted, in advance of infrastructure provision. Subject to **MM9** related to viability in decision-taking, there would also be the ability to negotiate contributions taking account of viability and the implications of non-provision or delayed provision of certain forms of infrastructure relative to the benefits of a scheme.
205. In our view it would be disproportionate to require minor development to be accompanied by a 'comprehensive, site wide infrastructure strategy' pursuant to Plan policy WS10 (as now also addressed in **MM18**). In our view policy WS10, as modified, reflects a proportionate and appropriate basis in respect of infrastructure provision and safeguarding.
206. The approach that the Plan seeks to achieve in terms of transport infrastructure should, however, be set out directly via policy rather than alluded to in the supporting text of the Plan itself. That would be achieved via **MM17** amending policy WS9. That is necessary to ensure that there is a clear basis for decision-taking as to whether development, as appropriate, achieves those objectives (in line with Framework paragraphs 16.d) and 104).

207. Clarity that the thresholds at which travel plans and transport assessments are required via Appendix 8 of the Plan, would also be achieved via **MM17**, which would make the Plan consistent with Framework paragraph 113 in that respect. **MM55** would further clarify that, in terms of parking provision, the approach in Plan Appendix 8 is guidance as opposed to be applied by rote. That is necessary in recognition that that different forms of development may legitimately come forward in different locations with varying levels of accessibility.
208. Whilst Framework paragraph 34 sets out how plans should set out the contributions expected from development, what is required in relation to development and the methodology for calculating contributions will inevitably change over time. We note that Appendix 10 of the Plan as submitted contains various references to figures and metrics that may not be relevant in the future, and which would effectively require a new development plan document to modify. As such we recommend that relevant elements only be retained in the Plan, and the approach clarified, as would be achieved via **MM18**, **MM19**, **MM57** and **MM67**.
209. We note that a number of contributions, notably in respect of healthcare and education, only apply to major development. Notwithstanding that many smaller schemes may cumulatively have a significant effect, that is nevertheless a proportionate approach. Many smaller schemes will entail impacts that fall within existing variation in terms of resource demands, noting that the Plan leans towards a number of substantial allocations, a premise which has informed the Infrastructure Delivery Plan.

## Conclusion

210. Subject to the MMs identified above, the Plan would be positively prepared in respect of economic growth and infrastructure.

## Issue 5: Is the Plan's approach to environmental, landscape and heritage assets justified and consistent with national policy?

### Environmental designations and habitats

211. Amidst a broader body of evidence, the Plan has been informed by the Wirral Environmental Sensitivity Study, which draws on an earlier and wider Liverpool City Region Ecological Network Report. As above, HRA work in respect of the Plan has established that, subject to the Interim Approach, adverse effects to the ecological integrity of European sites would be avoided.

212. Framework section 15 addresses conserving and enhancing the natural environment, paragraph 174 setting out various ways in which planning policies and decisions should achieve that. Framework paragraph 174.d) refers to 'minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures'. For consistency with that paragraph, as opposed to creating an 'exceptional circumstances' test for any loss of green or blue infrastructure under Plan policy WS5.1, **MM13** is necessary.
213. Moreover, in order to provide a suitable basis for decision-taking, the Plan should also in our view clearly set out the function of Nature Improvement Area Focus Areas as referred to in Plan policy WS5.4. That would be achieved via **MM12**. The absence of explanatory text on how the Local Nature Recovery Strategy, due to be published in 2025, will build on the Nature Improvement Area system is not, in our view, a matter of soundness.
214. Furthermore, and notwithstanding our reasoning above, reflecting the hierarchy in Framework paragraph 180.a), along with providing an appropriate approach to buffer zones, should be incorporated in Plan policy WD3 'Biodiversity and Geodiversity'. That would be achieved via **MM43**, which would also explain how environmentally sensitive designations reflect a particular point in time, and that engagement in respect of development proposals should be undertaken with that in mind rather than reliance being placed on existing boundaries. These changes are necessary for consistency with national policy and for effectiveness.
215. As Natural England data indicates, various site allocations relate to land that may support Open Mosaic (priority) Habitat. Notwithstanding the absence of detailed on-site investigations, that seems rational given that many sites are derelict and partly reclaimed by nature. In our view, however, that reflects a matter to be addressed in decision-taking, Open Mosaic Habitat being accounted for in the Government's statutory biodiversity metric.
216. We note the Local Wildlife Site Selection Criteria for the Cheshire Region. Paulsfield Drive Woodland is designated as a local Wildlife Site (LWS-SA5.1, OS-SA5.9). We understand that there has been some level of development on this site historically, notwithstanding its current principally natural character, and that there have been instances of antisocial behaviour.
217. Although development of this site may be able to preserve some of its existing qualities, we heard at the examination hearing session on 10 October 2023 how the site justified inclusion as a Local Wildlife Site on account of its species composition, rarity, and their value. We also note that the site currently functions as a private open space, and there is a history of refusals of permission here.

As such, the protection accorded to Paulsfield Drive Woodland via the Plan is justified.

## Biodiversity net gain

218. 10% Biodiversity Net Gain resulting from development has been required of applications for major development made since 12 February 2024, and for minor development applications made since 2 April 2024, by virtue of the commencement of relevant provisions of the Environment Act 2021. As submitted Plan policy WS5.4, criterion M, also sought to achieve a minimum of 10% Biodiversity Net Gain.
219. Policy WS5.4 also, however, committed the Council to delivering 20% Biodiversity Net Gain on Council owned land. Although varying in extent in different areas, we note that the Council owns a significant proportion of land where redevelopment is proposed. In our view, for consistency with statute, the 20% Biodiversity Net Gain requirement should be deleted, notwithstanding that aiming towards such would remain a corporate priority. That would be achieved via **MM12**, **MM13** and **MM67** which relate to Plan policies WS5, Appendix 10, and supporting text.
220. Schedule 14, paragraph 6 to the Environment Act 2021 sets out, in summary, that if unacceptable actions are taken which have the effect of lowering the biodiversity value of the site on or after 30 January 2020, those should not be taken account of in calculating Biodiversity Net Gain. Policy WS5.4 should be made consistent with those provisions via **MM13**, with **MM63** a consequential amendment reflecting changed policy numbering.

## Trees

221. As submitted Plan policy WD1.2, in seeking to provide appropriate protection for trees, sought only to protect those of 'greatest visual or wildlife value and other vigorous healthy trees and hedgerows'. For consistency with Framework paragraph 131 in particular, however, and so as to provide a clear basis for decision-taking, **MM15** and **MM41** are necessary. Those modifications would set a more holistic approach relative to the value of trees as opposed to those meeting the criteria set out in policy WD1.2 as above. In our view there is no need for soundness to establish a prescriptive approach to defining the value of trees at a plan-making stage.
222. We do not consider that it is necessary for the soundness of the Plan for ancient woodland to be mapped. Nevertheless, for consistency with Framework 180.c), and with Natural England guidance,<sup>22</sup> express reference to adequate buffer

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<sup>22</sup> 'Ancient woodland, ancient trees and veteran trees: advice for making planning decisions'.

zones in relation to irreplaceable habitats should be made via **MM43**, which relates to Plan policy WD3.

## Vulnerability to flooding

223. Although noted subsequently in respect of certain sites, the Plan and its allocations have been suitably assessed for inclusion in line with the sequential, and, as necessary, the exception test which is consistent with Framework paragraph 161.
224. We consider, however, that use should be made of the latest climate change allowances. That should be incorporated into policy WD4 via **MM44** for effectiveness. Moreover, for consistency with Framework paragraph 159, policy WS1.4 should be modified via **MM5**. As submitted policy WS1.4 in respect of addressing vulnerability to flooding was ambiguous and differed from the provisions of the Framework in that respect without substantiation.
225. We note the issue of flooding, in particular at land by the corner of Leasowe Road and Pasture Road, Pasture Marsh. However, in our view it is appropriate to identify that land as within the Primarily Residential Area subject to Plan policy WD10. Notwithstanding the proximity of the boundary of the Green Belt here, and that of the North Wirral Coastal Park, CREC-SA8.1, that site is to the south of Leasowe Road and has a close affinity with neighbouring residential areas.

## Green Belt

226. The extent of the Green Belt at Wirral has remained longstanding with the exception of accommodating the M53. That the Green Belt is tightly drawn is a rational response to the nature of the peninsula, which might fairly be characterised as functioning as a city in and of itself. The Plan does not propose Green Belt release, Plan policy WP8.1 setting out how 'national policy for the Green Belt will apply in the determination of proposals within the Rural Settlement Area [SA8] in addition to the other relevant policies in this Local Plan'.
227. It is therefore somewhat academic as to whether appropriate parcels of land have been assessed in terms of their contribution to the Green Belt. Nevertheless, for precision, Plan policy WP8.1 should refer to policy for the Green Belt applying to the determination of relevant proposals, both to avoid the implication that everything rural is necessarily within the Green Belt, and to apply proportionately relative to proposed development. That would be achieved via **MM5**, which is necessary for effectiveness.

228. The Plan as submitted neither insets villages from the Green Belt nor identifies major developed sites, which is a change from previous UDP policy and revoked Planning Policy Guidance 2: Green Belts. Framework paragraph 144 sets out that the primary consideration in establishing whether a village should be washed over by the Green Belt is whether openness contributes to the Green Belt, with 'normal development management policies' sufficient in the absence of such a contribution.
229. Based on our site visits we acknowledge that openness is more readily apparent at certain villages, for example Thornton Hough and Raby, than others. Nevertheless, Framework paragraph 140 sets out that 'once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified...'. The evidence before us in that respect does not meet that test.
230. Moreover, Green Belt policy does not prevent development, but rather ensures any development is either not inappropriate, or that there are very special circumstances for any inappropriate development. Framework paragraph 149.e), for example, sets out that 'limited infilling in villages' is not inappropriate development. Similarly proportionate extensions or alterations to existing buildings, and replacement of buildings with ones in the same use that are not materially larger are examples of not inappropriate development.
231. The particular operational needs of facilities within the Green Belt, whether for healthcare or otherwise, are capable of being material in determining whether very special circumstances exist in respect of inappropriate development. The approach set via the Plan in this respect is consistent with national policy and is justified.
232. In relation to specific areas within the Green Belt, the Castlefields estate sits between Leasowe Road and 'Mockbeggar Wharf or Wallasey Beach', with Leasowe Golf Club and land at Leasowe Castle Hotel either side of it. Whilst we accept that Castlefields might be characterised as a residential estate, it is nevertheless atypical in both location and form. Leasowe Road hereabouts forms a clear edge to consolidated built development as far eastwards as Greenleas Road and as far west as Leasowe Gardens by Pasture Road.
233. We understand that the Castlefields estate originated as a series of holiday chalets around the early twentieth century provided in the former grounds of Grade II\* Leasowe Castle. That history is still apparent, properties there are universally modest, some remaining little more than simple timber-clad buildings. Those characteristics combined with the spaciousness of plots means that the estate is not readily apparent outside its boundaries. Consequently, and noting that the estate was within the Green Belt under the UDP, there are no exceptional circumstances to remove it from the Green Belt.

234. Thereabouts the Green Belt rationally extends westwards beyond Leasowe Castle and also Pasture Road, encompassing Strategic Housing Land Availability Assessment site 0637, an essentially open parcel of land [H7.6]. The boundary of CREC-SA8.1 runs along the coastline and Wallasey Embankment, returning to the north of Leasowe Road near Shannon House. There is nothing to indicate that the boundary of CREC-SA8.1 has been inappropriately drawn relative to existing land ownership.

## Local Green Spaces

235. We acknowledge that the Council's Local Green Space Designations: Review of Sites document is brief, sites being assessed with reference to a number of attributes [G15]. Nevertheless, those attributes are aligned with those set out in respect of Local Green Spaces in Framework paragraph 102, and whether a given location reflects those attributes is inherently a matter of judgement. Combined with the evidence before us, and our site visit observations, the Local Green Space Designations: Review of Sites document reflects a proportionate basis upon which to establish whether or not sites should justifiably be identified as Local Green Space.

236. The Greenfield Estate, LGS-SA6.3, is designated as a Local Green Space in the submitted Plan. However, we consider that this site would not meet the criteria in Framework paragraph 102 as it does not perform strongly in those respects, and note that an appeal has recently been allowed on this site. As such, the designation of this site as a Local Green Space should be deleted. This would be achieved by **MM69**, which is necessary for the Plan to be effective.

237. In respect of the 'Noctorum Lane Sports Ground', LGS-SA3.3, having visited the site and its surroundings, we are of the view that LGS-SA3.3 is justified. Although Noctorum Lane Sports Ground may no longer be used as a playing field, it nevertheless contributes towards tranquillity amidst predominantly residential development to the west of Birkenhead.

238. Although not perhaps historically significant in itself, the site reflects a rare surviving undeveloped parcel of land. On account of its boundary walls and tree canopy, Noctorum Lane is appreciably historic. In that context the site might fairly be said to possess some beauty by virtue of its openness. Our view in that respect essentially aligns with the attributes that the Local Green Space Designations: Review of Sites document found it to possess.

## Other natural and landscape assets and implications

239. 'GLVIA3' and 'TGN02/21' set a methodological approach for assessing landscape and visual character and the effects of proposed development.<sup>23</sup> Framework paragraph 174.a) sets out how planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. Framework paragraph 174.b) is that planning should also recognise the intrinsic character and beauty of the countryside, which in itself indicates a degree of protection.
240. The Plan is supported by a Landscape Character Assessment, Landscape Sensitivity Assessment, and associated Addendum. There is also a Wirral Local Landscape Designations Review. The Plan designates 5 Areas of Special Landscape Value. These studies, which refer to concepts in GLVIA3 and TGN02/21, and have assessed proportionate parcels of land in respect of plan-making, represent a suitable evidential basis underpinning the Plan.
241. That said, Plan policy WS5.8 'Landscape Character', on a plain reading, went beyond the approach in the Framework, potentially as far as seeking to avoid any adverse landscape effects in any location by virtue of criterion T. For consistency with the Framework as above **MM13** is necessary, which also sets out clearly the distinction between landscape and visual effects consistent with GLVIA3 and TGN02/21.
242. Area of Special Landscape Value LAN-SA8.2 'Thornton Hough Estates', is enlarged via the Plan relative to ASLV LA2/4 as in the UDP. In our view that is justified. LAN-SA8.2 as defined in the Plan as submitted, possesses several attributes referred to in table 1 of TGN02/21, which sets out a range of factors that may be considered in respect of landscape value. That, we saw, is particularly the case in respect of its landscape condition, perceptual scenic qualities, and distinctiveness, particularly in the context of development nearby eastwards around Raby Mere and Poulton and westwards at Heswall.
243. Those characteristics are not solely embodied by landscape to the north of LAN-SA8.2, but blur around Raby and to the south-east of the village. There is also an appreciable historic structure to the landscape, including at and around Raby.<sup>24</sup> As such, noting that different elements of a valued landscape will contribute differentially to it, we are of the view that the Area of Special Landscape Value boundary set via the Plan is justified.

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<sup>23</sup> The Landscape Institute and Institute of Environmental Management & Assessment's Guidelines for Landscape and Visual Impact Assessment: Third edition, and the Landscape Institute's Technical Guidance note 02/21 'Assessing landscape value outside national designations'.

<sup>24</sup> Notwithstanding some evidence of change.

244. The land to the west of Wittering Lane near Heswall Beach falls within LAN-SA8.1, the Dee Estuary, an Area of Special Landscape Value which covers an extensive swathe of coastal land. We acknowledge that there is a handful of principally residential streets west of Wittering Lane. Nevertheless, those streets, many of which appear to have emerged historically from the late Victorian era onwards, are very much exceptions to the otherwise more consolidated built form of Heswall.
245. In our view gently sloping undeveloped land within LAN-SA8.1 here provides an important contribution to distinctive landscape character. In particular such parcels and a generally low intensity of development contributes towards expansive views, openness, and sense of tranquillity around the Estuary. There is, in short, no compelling justification for redrawing the boundaries of LAN-SA8.1 here to achieve consistency with national policy. We note our view is consistent with that of the Landscape Sensitivity Assessment Addendum.
246. Noting the area-based approach in the Plan as addressed under issue 6, the interaction of Other Developable Areas ('ODAs') and protected areas is unclear. That is particularly the case in respect of the interaction of Plan policy RA10, which covers not only built development around New Brighton, but an extensive swathe of coastal land including the Dips, LGS-SA1.8, 'King's Parade', and Tower Grounds, LGS-SA1.9. The ODA at policy RA10 anticipates delivery of 250 dwellings as shown at Plan Figure 4.13.
247. Following hearing sessions where this matter was discussed, the Council advanced a new criterion 5 to Plan policy RA10, namely notwithstanding the Regeneration approach at RA10, to protect open spaces in accordance with their designations. That, in our view, is necessary to provide a clear and unambiguous approach for reacting to development proposals, and would be effected via **MM31**.
248. For consistency with Framework paragraph 152, which refers to coastal change, we have recommended the deletion of Plan Appendix 17 'Areas of coastal erosion' via **MM71**. The identification of certain locations vulnerable to coastal erosion may incorrectly suggest that consideration of coastal change is limited to those areas, as opposed to applying more broadly via Plan policy WD4.1.
249. In our view, given its current nature and accessibility, there is nothing to indicate that OS-SA4.2, the Brotherton Park and Dibbinsdale Local Nature Reserve, should not be allocated as such.

## Heritage

250. Wirral's history can, in part, be appreciated through its many historic buildings and Conservation Areas attesting to the past in the present. There are also

various other assets or aspects of historic significance, including registered parks and gardens, ancient monuments, archaeological remains and non-designated heritage assets.

251. Collectively those assets, and their relationship to their surroundings, reflect a rich history to Wirral and a long and contested continuity of settlement extending to Roman times and beyond (notwithstanding that, as yet, there is no clear evidence that the Battle of Brunanburh took place near Bromborough). There is a Wirral Heritage Strategy, a Birkenhead 2040 Culture and Heritage Strategy, with various emerging masterplans, allocations and planning permissions addressing significance at different levels of detail.
252. Notwithstanding that section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended is prefaced with 'in considering whether to grant planning permission...', that section nevertheless goes on to set out that special regard shall be had to the 'desirability of preserving the building or its setting...'.
253. Section 72(1) of the above Act is similar, requiring that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that [Conservation] area'. Section 16 of the Framework builds on those provisions, including at paragraphs 190 setting out how plans should set out a 'positive strategy for the conservation and enjoyment of the historic environment...'.
254. Various elements of the Plan as submitted refer to the need to 'preserve and enhance' significance, which is a different test to the legislative and policy context above. That should be remedied, principally via **MM42**, which relates to policy WD2.2 'Conservation Areas', to be consistent with national policy. That approach needs also to apply to individual conservation area policies, which should also make clear that the attributes or characteristics to which they refer are indicative rather than comprehensive in terms of defining or representing significance. **MM26**, **MM27**, **MM32**, **MM33**, **MM34**, **MM35**, **MM36**, **MM38**, **MM39** and **MM40** are necessary for consistency with national policy in that respect.
255. **MM42** is also necessary to ensure that policy WD2.1 is consistent with Framework paragraph 203 in respect of the treatment of non-designated heritage assets, and with Framework paragraph 206 insofar as enhancing or better revealing significance is concerned.
256. Similarly suitable recognition of historic significance, and consistency with national policy in respect of Regeneration Areas would be achieved via **MM22**, **MM24**, **MM25**, **MM26**, **MM28**, **MM31** and **MM32**, and in respect of port related uses via **MM11**. Policy WS7.5 of the Plan as submitted recognises that heritage considerations will be relevant in respect of tall buildings. Whilst it is rational that

tall buildings are addressed via a distinct policy, relative to prevailing building heights, and in order to provide a clear and effective basis for decision-taking, that should be clarified to apply to buildings of 8 or more storeys via **MM56**.

257. We are satisfied that, subject to the agreement of masterplans, and taking account of significance in decision-taking, the Plan would provide appropriate safeguards for the setting of heritage assets across the Mersey.

258. Zone-based density requirements in Plan policy WS3.2 should not, however, apply to Conservation Areas, as existing character or appearance should be of primary importance in line with the provisions set out in paragraph 252 and 253 of this report. That interaction would be expressly clarified via **MM10**, which relates to policy WS3.2 in that respect and is necessary for the Plan to be consistent with national policy.

259. Although there is no singular Plan policy addressing heritage, as a whole the Plan in our view nevertheless provides for a positive strategy for the conservation and enjoyment of the historic environment.

## **Conclusion**

260. Subject to the MMs above, the Plan's approach to environmental, landscape and heritage assets would be justified and consistent with national policy.

## **Issue 6: Is the area-based approach, and are the allocations, consistent with the Plan's spatial strategy and justified?**

### **The area-based approach in the Plan**

261. Settlement Areas, of which there are 8, 'SA1-SA8', represent the largest geographic policy unit set via the Plan. Alongside consultation on the MMs, the Council defined boundaries for Settlement Areas on the policies map. Some Settlement Areas contain Regeneration Areas, of which there are 11 as shown at Plan table 3.6, ('RA1-RA11'). Other Developable Areas ('ODAs') are the areas left in Regeneration Areas once site allocations have been discounted. There are also site allocations outside of Regeneration Areas.

262. ODAs are the same as 'broad locations for growth' as in Framework paragraphs 23 and 68. ODAs do not, however, have the same boundaries as Masterplan Areas ('MAs'). MAs cover more limited areas and are intended to ensure that a comprehensive and coordinated approach is taken to planning and delivery of development and infrastructure associated with individual sites. Recently, including over the course of the examination itself, the Council has prepared and consulted on various Masterplans and Neighbourhood Frameworks. Those

documents were often offered as evidence in support of anticipated delivery in certain locations.

263. The Plan also includes Gateway Areas, which are a different concept to the area-based designations referred to above, related principally to ensuring appropriate design at arrival points in Wirral. In our view, however, the Plan's approach to Gateway Areas, as submitted, was arbitrary in failing to clearly define such locations and justify a 100m buffer from them; clarity in that respect, and thereby consistency with Framework paragraph 16.d), would be achieved via **MM14**.

## Overarching area-based issues

264. Relative to the Council's Housing Delivery Strategy of May 2022, anticipated housing completions in respect of various locations have been delayed. Whilst we return to that point on occasion, that underscores the importance of the Plan acknowledging that it is premised on delivery, via **MM1**, and being effectively monitored via **MM70**.

265. Appendix 4 to the Plan is a graph representing the housing trajectory. It is a summary of the Submission Draft Housing Trajectory Annual Breakdown, which sets out anticipated capacity and delivery timescales for individual sites [BP1.1]. For effectiveness it is necessary that our subsequent assessment of site capacity and delivery should be reflected in **MM5** and a revised version of Appendix 4, as would be achieved via **MM65**.

266. The Draft Birkenhead Regeneration Framework [BR1] and emerging masterplanning and neighbourhood frameworks focus on what could or might be achieved in given areas. They are principally design-focused, with examples drawn from other locations, where market conditions inevitably differ. We note that the Draft Birkenhead Regeneration Framework 2040 sets out how development within the Framework area 'must create a critical mass of activity...', to spur confidence in regeneration. Nonetheless, in themselves, the Draft Birkenhead Regeneration Framework 2040 and the Council's work on masterplanning demonstrate that there is now focussed attention on regeneration, increasing density of development, and to the aim of delivering a strategy (which has been absent for many years).

267. In that context, rationally, the Plan sets out density zones informed by the prevailing characteristics of areas and a substantial body of evidence. In our view, whilst that approach and those zones are proportionately and appropriately defined, the Plan should clarify that, where feasible, it aims to maximise the efficient use of land. That would be achieved via **MM10**, which would amend policy WS3.2 in that respect for effectiveness.

268. In the Plan as submitted, however, in respect of many allocations the level of density expected exceeds that of density zones. So that expectations are clear and unambiguous in that respect, it should be clarified in such circumstances that the density expectation in an allocation prevails, again via **MM10** for effectiveness.
269. We have assessed the delivery of each area and allocation in the Plan. We consider that some of the lead in times anticipated by the Council for some sites and areas may be optimistic, but we also recognise that there is significant momentum and drive by the Council and its partners to secure regeneration which gives us confidence that the pace of delivery can pick up with an adopted plan in place.
270. We acknowledge that there is little consistency in terms of the approach taken to the Council's anticipated delivery from ODAs. There is also limited evidence before us of their extent, the nature or proportion of existing uses relative to vacant or underused land, and in respect of land ownership (for example that which is within the control of the Council or part of the Wirral Growth Company joint venture). Each ODA is, however, different in its extent and the nature of land that it encompasses. Anticipated delivery has, as above, been informed by masterplanning work in particular. We have carefully considered each, including informed by various site visits and our own observations.
271. Framework paragraph 68 sets out that '... planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability.' That paragraph continues that 'planning policies should identify a supply of: a) specific, deliverable sites for years one to five of the plan period and b) specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 of the plan.' We note that the PPG emphasised that plans 'can pass the test of soundness where local planning authorities have not been able to identify sites or broad locations for growth in years 11-15'.<sup>25</sup>
272. Deliverable and developable are concepts defined in Annex 2: Glossary to the 2021 Framework. Subject to **MM5**, the base date of the Plan would become 2022. There is data available for the monitoring year 2022/23, which effectively becomes Plan 'year 0'. Plan years 1-5 are 2023/24 to 2027/28. Plan years 6-10 are 2028/29 to 2032/33. Plan years 11-15 are 2033/34 to 2037, leaving years 16 and 17 beyond (2038/39 and 2039/2040). In total the Plan would have a timeframe of 18 years.
273. It is a matter of judgement as to whether sites are deliverable or developable. In respect of developable, the Framework sets out that there should be consideration of whether the site could be viably developed at the point

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<sup>25</sup> PPG Reference ID:3-027-20140306.

envisaged. We have taken that into account in coming to a view on sites, noting that the future becomes more uncertain the further away that it is.

274. Different sites and different typologies of development will have different delivery trajectories. Houses delivered across a broad site may have a relatively consistent delivery trajectory over several years. Flats delivered in a tightly bounded site may instead reach the market in a greater number over a shorter period. Whilst we are mindful of this, again the further ahead in time forecasts are made the more subject to uncertainty they become.
275. In the Plan as submitted some sites were ascribed an 'anticipated delivery' year, others not. In addition to that inconsistency, the inclusion of an anticipated delivery date within the Plan might suggest that it is part of the policy as opposed to a reflection of when delivery is expected. As such, as reflected in **MM39, MM38, MM37, MM36, MM35** and **MM33**, we recommend anticipated delivery dates are removed.
276. Of the site allocations in the Plan as submitted, 25 were for sites capable of delivering between 1 and 9 units, as set out at Appendix 18 to the Plan. Several of those Appendix 18 allocations have now completed. At the examination hearings the Council explained that allocations at Appendix 18 had principally been derived from proposing to allocate sites that originated as 'windfalls'. That approach accounts for why 11 of the Appendix 18 allocations are for single dwellings.
277. In our view, however, Appendix 18 allocations should be deleted (being, to all intents and purposes, windfall development renamed allocations). Whilst it is legitimate to take account of supply from Appendix 18 allocations, either in terms of completions or where they are deliverable, we recommend the deletion of Appendix 18 via **MM72** for effectiveness. The implications of **MM72** also necessarily flow through to **MM33, MM34, MM35, MM36, MM37, MM38** and **MM39** which all involve the deletion of Appendix 18 allocations in respect of their inclusion in different areas governed by different policies in the Plan.
278. In part the Council's rationale for the inclusion of Appendix 18 was in relation to Framework paragraph 69.a). That paragraph, in summary, expects in the first instance that at least 10% of an area's housing requirements is to be met via sites no larger than 1ha. Nevertheless, a large number of allocations remain below 1ha, setting aside any contribution from windfalls or changes of use, such that there would be no inconsistency in that respect.
279. In respect of employment allocations, the 2021 Wirral Employment Land and Premises Study follows the approach in the PPG in terms of translating employment forecasts into land requirements informed by benchmark plot ratios

and relevant typologies [EE5, paragraphs 2.17, 8.21 and 10.46].<sup>26</sup> Therefore, in neither this nor the Royal Institute of Chartered Surveyors' Professional Standard entitled 'Land measurement for planning and development purposes' is a given site area the same as the floorspace that could be delivered on it, noting that the Framework and PPG emphasise how plan-making should be informed by proportionate evidence.

280. Moreover, the approach to establishing employment land requirements has jobs generation as its base unit. That is important. The aim of the economic approach of the Plan, through provision of land and floorspace, is ultimately to generate employment. That said, jobs may be supported through other means than creation of floorspace. Those means may include changes of use to more intensive or dense employment uses. For that reason, we are not of the view that land used for the operational requirements of existing uses, for example those related to the Port and Maritime Sector, should be discounted from a contribution towards achieving the economic strategy in the Plan.

281. Section 6.1.2 of the Royal Institute of Chartered Surveyors' Professional Standard further explains that, reflecting that scheme design will become refined the closer to development a project reaches, site area is preferable in terms of planning policy as schemes may accommodate constraints and amenities in design. As such, in our view, the overall site area as a metric of measurement is preferable (including as the evidence before us is most readily interrogatable in that manner).

### **Settlement Area 1, Wallasey ('SA1')**

282. SA1 includes three regeneration areas, 'RA1', The Seacombe River Corridor Regeneration Area, 'RA9', Liscard, and 'RA10', New Brighton. Whilst RA8 Northside extends fractionally into SA1, it has a greater geographic overlap with Settlement Area 2, 'SA2', and is considered accordingly in this report, along with the only two employment allocations in SA1 which fall within RA8, EMP-RA8.1 and EMP-RA8.2.

### **Regeneration Area 1, Seacombe ('RA1')**

283. There are no site allocations in RA1. Instead, the Plan forecasts that 340 new dwellings will be delivered over the plan period within the ODA there. In this instance therefore the boundaries of the ODA and RA1 are the same.

284. The Wirral Local Plan Housing Delivery Strategy indicated that housing completions from the ODA were anticipated from the 2026/7 monitoring year onwards. At examination, however, the Council indicated that completions are

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<sup>26</sup> Reference ID: 2a-030-20190220.

now only expected from the 2028/29 monitoring year onwards [WBC046]. That is a change of 2 years, such that delivery within RA1 is now expected from Plan year 6 onwards, which would be consistent with the nature of ODAs or broad locations as reflected above.

285. Within RA1 there is a single Masterplan Area, MPA-RA1.1, 'The Wallasey Town Hall Quarter and Toronto/Demesne Street and Borough Road East Waterside Neighbourhood Masterplan Area'. Albeit that there are no specific figures before us, MPA-RA1.1 occupies a significant proportion of RA1. In respect of MPA-RA1.1 in October 2023 the Council published a Draft Wallasey Town Hall Quarter Masterplan, and accordingly proposed altering the name of it and the boundaries to which it applies. Having regard to the role of the masterplan and the need for the Council to drive regeneration, we consider it justified to modify policy WS6 to align both the name of the area and the geographical extent to which it applies to that of the masterplan document. **MM14** addresses that for effectiveness.
286. The Draft Wallasey Town Hall Quarter Masterplan identifies, at this stage in draft, a potential net housing delivery in the Wallasey Town Hall Quarter, MPA-RA1.1, of 496 dwellings. That, the Council say, indicates that there is potential for significantly greater development across the ODA at RA1 as a whole.
287. We understand that there is a concept plan for 149 properties in respect of the former office buildings at Wallasey Town Hall, the Council working with a Registered Provider, Magenta Living, in that respect, albeit that is yet to progress towards a planning application.<sup>27</sup> The Strategic Housing Land Availability Assessment indicated sites capable of delivering a cumulative total of 106 dwellings within RA1. The north annex is given indicative capacity of 19, the south annex of 45, although evidently there is aspiration for more now.
288. Notwithstanding that the project has not progressed as quickly as envisaged, we consider that there is a reasonable prospect of development happening in the plan period and contributing to the overall ODA delivery. This is a major regeneration component of the area and would be a catalyst for further development in the area. The approach is soundly based.
289. There is also the acknowledged need to relocate recreational provision at the North Seacombe Recreation Ground at Toronto Street. At present the Plan does not make provision in that respect, which for effectiveness would be rectified via the inclusion of Guinea Gap as a sports facility in Appendix 11 to the Plan subject to **MM68**.

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<sup>27</sup> Notwithstanding that the Council have determined that prior approval is not required for the demolition of either the north or south annex (applications ref. DEM/22/01919 and DEM/22/02000).

## Regeneration Area 9, Liscard

290. Liscard town centre is in need of regeneration and has been subject to the Liscard Neighbourhood Framework approved by the Council in 2021. That was supported by a £0.5m Liverpool City Region grant. The Liscard Regeneration Area is relatively small, focussed around the junction of Wallasey Road and Seaview Road, extending outwards to cover areas of mixed use nearby.
291. The Plan anticipates provision at RA9 through a single residential allocation for 100 homes at the Former Municipal Buildings on Seaview Road, RES-RA9.1, and development at ODAs equally comprising 100 units. The Council anticipates that the earliest housing completions could occur at RES-RA9.1 would be in 2025/26.
292. The Housing Trajectory Update maintains anticipated delivery at RES-RA9.1 as 20dpa from 2025/6 to 2029/30 [WBC046], albeit that is a slightly arbitrary figure given that the scheme would be flatted development with a density of about 120dph. We consider that there is a significant drive and momentum from the Council to secure funding and progress the redevelopment of the site but we consider that completions would be likely to occur later than the Council envisages, in 2027/28. Therefore, anticipated delivery from RES-RA9.1 is partially within and partially without the 5-year period, which should be reflected in the plan's housing trajectory. ODAs are indicated as delivering wholly from 2030/31 onwards through to 2034/35.
293. There is a possibility that another former office block, Dominick House would be converted to residential but if it did so the figures would count as gains from conversions and accounted for separately. Nevertheless, there are a number of other opportunities for residential development within the regeneration area.<sup>28</sup> On balance therefore delivery from RES-RA9.1 is likely from year 5 through to year 7, 100 in total, and delivery within the ODA here from year 8 until year 12, again 100 in total (as shown in **MM5** and **MM 65**).

## Regeneration Area 10, New Brighton

294. There are 3 residential allocations within RA10 which is focussed on New Brighton. One of the allocations, RES-RA10.2, has now been completed and should be removed as an allocation. **MM31** addresses this for effectiveness.
295. RES-RA10.1 is the site of the former Grand Hotel. The site is cleared and had permission for redevelopment for residential uses. That permission has now lapsed but there is interest from owners to bring forward another scheme and the Council is keen to assist the redevelopment of the site. There is evidence

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<sup>28</sup> Including but not potentially limited to TC03, TC04, UV03, UV04.

that the New Palace Amusements site, RES-RA10.3, will be the subject of a planning application for a mixed-use scheme including residential, and there are good prospects for its delivery in the plan period.

296. The Marine Promenade is a landmark location and there is clear evidence that the Local Plan expectations of regeneration in New Brighton are well founded. There is significant prospect of positive change here in the Local Plan period. Both allocations and the delivery assumptions in the ODA are sound.

## Other SA1 allocations

297. There are 5 further allocations within SA1 outside of regeneration areas.<sup>29</sup> In respect of RES-SA1.1, the site at the rear of the Lighthouse Public House is vacant, with residential development on 3 sides and within viability zone 2, and as such in our view is developable, as opposed to deliverable as indicated by the Council on account of there being no planning permission in place (permission having previously lapsed).

298. RES-SA1.2, 'Land at Gibson House, Seabank Road', interacts with allocation RES-SA1.3, 'Land at Gibson House, Maddock Road'. We were told at the hearings, in addition to the delivery of 3 units to date that there is planning permission in place,<sup>30</sup> and those sites are therefore deliverable.

299. RES-SA1.4 is an Appendix 18 site as addressed above, which we heard at the hearings has been completed in any event and should therefore be deleted. RES-SA1.5, the Old Manor Club', has full planning permission,<sup>31</sup> and is deliverable. **MM5, MM30, MM31** and **MM33** make the necessary changes to SA1 as set out above for effectiveness.

## Settlement Area 2, Birkenhead Commercial Core ('SA2')

300. SA2 includes 6 Regeneration Areas, Scott's Quay ('RA2'), Birkenhead Waterfront ('RA3'), Central Birkenhead ('RA4'), Hind Street ('RA5'), Wirral Waters ('RA6') and Hamilton Park ('RA7'). SA2 also includes the majority of a seventh, Northside ('RA8').

301. SA2 is a substantial and complex area. In large part it is characterised by a post-industrial legacy of formerly more extensive maritime and port related buildings and infrastructure. Occasionally buildings are listed, many dating from

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<sup>29</sup> RES-SA1.1, RES-SA1.2, RES-SA1.3, RES-SA1.4 and RES-SA1.5.

<sup>30</sup> Ref. APP/18/00786, which involves the conversion of Gibson house to 34 flats, the restoration of an adjacent lodge to a dwelling, three detached dwellings and three apartment blocks comprising a total of 98 units.

<sup>31</sup> Permission ref. APP/19/01725, as subsequently amended.

the economic heyday of the area; Morpeth and Egerton Docks, as well as the Accumulator Tower by Alfred Dock and the Hydraulic Generating Station by East Float, all drawing their origins to the mid-to late nineteenth century. Whilst SA2 falls within viability zone 1 ('VZ-1'), where comparatively development is least viable in Wirral, there are many existing commercial and residential uses. As recognised in the Draft Birkenhead Regeneration Framework 2040, the area is inherently one of both constraints and opportunities.

302. At SA2 the Plan identifies 13 Masterplan Areas, 13 residential allocations, 11 employment allocations and 7 mixed use neighbourhoods. Other than in respect of RA6 and RA8, the Plan also anticipates delivery from ODAs within the other Regeneration Areas. As submitted the Plan anticipates 5,713 dwellings coming forward over the Plan period from residential allocations, along with an additional 2,965 from ODAs, with employment allocations amounting to 44.62ha.

## **Regeneration Area 2, Scott's Quay ('RA2')**

303. As submitted the Plan proposed 2 residential allocations in RA2, RES-RA2.1 for 200 dwellings at Land East of Birkenhead Road (North), and RES-RA2.2 for 250 dwellings at Land East of Birkenhead Road (South), along with an ODA anticipated to deliver 250 dwellings. RA2 also included one mixed urban neighbourhood, MUA-RA2.1, and areas covered by 2 Masterplan Areas, MPA-RA2.1 and MPA-RA2.2.

304. In short, there are clear constraints to development at RA2 with reference to Framework paragraph 187 and the agent of change principle. Having reflected on consultation on the broader Scott's Quay Neighbourhood Framework in mid-2023, the Council reached the view during the examination that further work was necessary in respect of RA2 as a whole. The Council reached that view taking account of representations at examination with particular reference to the potential odour, air quality and noise implications of extant uses nearby, principally associated with United Molasses' operations. That position aligns with our assessment.

305. Aside from the Seacombe-Church Hills existing residential area, consistent with the existing nature of the area to which allocations and the ODA at RA2 relate, land there should instead be defined as primarily for employment under Plan policy WS4.2. Even though there is potential for mixed use development there at some point, the above nevertheless represents a justified position based on current evidence. For consistency with national policy, residential allocations at RA2 and the ODA should be deleted, principally via **MM23** and consequentially via **MM2**, **MM3**, **MM5**, **MM25**, **MM26** and **MM66**.

## **Regeneration Area 3, Birkenhead Waterfront ('RA3')**

306. The Plan proposes 1 residential allocation within RA3, RES-RA3.4 'Rose Brae, Church Street, Woodside', for 180 units across a site of approximately 1.96ha (representing a 'gross' residential density of around 92dph). The site falls within the waterfront density zone under Plan policy WS 3.2, where residential density of a minimum of 70dph is sought. It is between residential development to the south and east, with Government buildings to the north. As submitted the Plan anticipated completions in 2026/27, Plan year 4 onwards, proceeding at 30dpa through to 2031/32. Rose Brae is Strategic Housing Land Availability Assessment site 478, described as a 'vacant former dockyard site' which has been left to its own devices for many years [H7.2].
307. The justification for anticipated delivery of 180 units is, however, unclear. We note that the site was previously considered for a scheme of 119 dwellings. That would be closer to the figure of approximately 138 dwellings that would result from development at 70dph. In our view, taking account of the Plan's approach to density and the level change across the site, at policy WS3.2, the latter is a reasonable expectation, noting that we address density expectations and their interaction with viability under issue 7.
308. Rose Brae has had a difficult history. A larger site of 2.34ha was allocated via UDP policy HS1 for 130 dwellings, at that juncture intended to deliver between April 1992 and March 2001. Evidently development has not occurred. We are also told that the site is too large for the registered provider owner to develop in isolation. The Council characterise that there has been little progress on account of 'lack of certainty regarding future land uses and regeneration proposals' here, notwithstanding its allocation via the UDP [BP1]. As such the site cannot be considered deliverable, and suitable site preparation will inevitably be required (reflecting, amongst other things, its current contribution to biodiversity).
309. That said, in November 2022 there was an architectural competition in respect of the site, and architects appointed thereafter. The owner's intention was to achieve full planning permission by Spring 2024, with the Council informing us at the examination hearing on 18 October 2023 that site clearance was scheduled imminently. We were also told that a board has been appointed to work towards delivery. That progress, taking account of lead-in times in the Strategic Housing Land Availability Assessment, in our view results in a reasonable prospect of the site being developed from 2028/29 through to 2033/34. For effectiveness the anticipated capacity of site RES-RA3.4 should be reflected via **MM24**.
310. As submitted the Plan envisaged delivery of 450 dwellings from the RA3 ODA. At examination the Council instead advanced a figure of 600 dwellings [WBC046]. That latter position potentially draws from the Draft Birkenhead Waterfront Neighbourhood Framework, which refers to 600 new homes. Whilst we accept that delivery at the RA3 ODA will be contingent on the Plan

generating momentum in respect of regeneration, and intensification of development, the Draft Birkenhead Waterfront Neighbourhood Framework indicates significant potential in this respect.

311. Plan policy MUA-RA3.1 is also supportive of mixed use development across and around the Morpeth and Egerton Docks, as is policy MUA-RA3.2 'Priory Village'. Within the RA3 ODA there are numerous pockets of undeveloped land or that which is given over to relatively low intensity uses (and some which appear vacant). In our view therefore a suitable estimation of housing delivery here over time of 38 dwellings annually is reasonable from years 2028/29 of the Plan period onwards, amounting to some 456 overall. That would be reflected via **MM24** which is necessary for effectiveness amending Plan policy RA3 to reflect the figure of 456 as above.
312. In respect of employment, the Plan designates EMP-RA3.1, a site of 1.58ha, for 'B2/B8/Port related' use at Twelve Quays south of Morpeth Wharf. Whilst much of the site is tree covered, our position in respect of the Royal Institute of Chartered Surveyors' Professional Standard above, that site area is a preferable metric, remains. Whilst the site is vulnerable to flooding, offices, general industry, storage and distribution are considered 'less vulnerable' to flooding, and docks, marinas and wharves 'water-compatible' development (and as such are uses not incompatible where there is raised vulnerability to flooding).<sup>32</sup>
313. We understand that Stena Line currently intend to use the site in association with the ferry terminal.<sup>33</sup> That intended use does not, however, indicate that the scheme would fail to deliver against the employment or economic objectives of the Plan. Such development would support jobs, which are the base unit from which employment figures and thereby land requirements are derived.

#### **Regeneration Area 4, Central Birkenhead ('RA4')**

314. RA4 includes 3 residential allocations, 3 masterplan areas, MPA-RA4.1, MPA-RA4.2, MPA-RA4.3, and an ODA which the Plan indicates is capable of delivering 1,000 dwellings, along with a mixed use area defined around Hamilton Square, MUA-RA4.1. The residential allocations are RES-RA4.1, 'WGC Town Centre Plot E, Hemingford Street', RES-RA4.2, 'WGC Town Centre Plot G, South of Conway Park Station' and RES-RA4.3 'WGC Town Centre Plots I and J, North of Conway Park Station'. The Plan gives their site areas as 1.38ha, 1.24ha and 1.43ha, and anticipated delivery of 172, 92 and 185 units respectively.

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<sup>32</sup> PPG Table 2 at Reference ID: 7-079-20220825,

<sup>33</sup> To which application ref. APP/23/00041 relates.

315. To some extent the distinction between the sites is arbitrary as they all relate to different elements of a hybrid planning permission of 5 August 2021,<sup>34</sup> the applicant for which was the Wirral Growth Company (an equal joint venture partnership between the Council and Muse). Collectively, as in the Plan as submitted, these allocations cover an area of 4.05ha and seek to enable the provision of 449 units. That represents a density of approximately 111dph. Referring to the planning application, the Council sought at examination to update anticipated delivery from RES-RA4.1, Plot E, to 200 units.
316. We understand, however, that the residential element only has outline planning permission and no reserved matters application has been submitted. Whilst we accept that there is a case for relatively high density given the location of RES-RA4.1, RES-RA4.2 and RES-RA4.3, close both to the Conway Park Merseyrail station and Birkenhead Bus Station, 111dph is nevertheless an unusual level of residential density in this area. We saw that residential development around Birchwood Avenue and Parkfield Avenue tend to represent a typical suburban density, being characterised principally by semi-detached or short terraces of two storey properties and low rise courts. Those allocations also fall within the 'Urban Core and Town Centre Density Zone' under Plan policy RES-DZ2, where a minimum of 60dph is advocated.
317. In VZ-1, as is the case of RES-RA4.1, RES-RA4.2 and RES-RA4.3, viability tends to decrease as density increases. At the levels of density anticipated via the Plan, the Council put the viability deficit at these sites of between £16,735 and £70,917 per unit depending on what their viability work terms the 'pragmatic' or 'worst case' scenario [WBC031]. That contrasts with the Development Consortium, who anticipate a viability deficit of £137,634 per unit [AD01]. In this context, in our view, a reasonable assumption regarding density would be 90dph reflecting a suitably proportionate uplift in density relative to RES-DZ2 indicating a more realistic capacity of around 365 units, which for effectiveness would be incorporated into the Plan via **MM25**.
318. RES-RA4.1, Plot E, covers the Europa Centre, currently tenanted by various businesses including Mecca Bingo, and its associated car park. RES-RA4.2, Plot G, is currently occupied by Vue Cinema. RES-RA4.3, Plots I and J, are currently cleared land used as Price Street Car Park. Evidently delivery has slipped from the Council's former expectation of completions in respect of RES-RA4.3 in 2023/4. At the examination hearings we heard that the sites needed to be marketed, sold,<sup>35</sup> and leases terminated before development could commence. As such, and notwithstanding that there is a reasonable prospect of longer-term delivery, there is no clear evidence that housing completions will begin on site within 5 years. As such the evidence before us points towards

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<sup>34</sup> Ref. APP/20/01138.

<sup>35</sup> Noting that there was unsuccessful marketing undertaken in 2022, notwithstanding some interest.

delivery likely from years 2028/29 to 2032/33, i.e. Plan years 6-10. This should be reflected in the Plan via **MM5** for effectiveness.

319. The Plan sets out that the RA4 ODA is anticipated to deliver in the order of 1,000 units over the plan period. Unlike in other areas the Council proposed at examination increasing that level of delivery to 1,200 units, reflecting the changed Plan period set out via **MM5**. The Draft Central Birkenhead Neighbourhood Framework indicates that it is premised on the delivery of just under 1,800 new homes.
320. The RA4 ODA covers a dense tranche of Birkenhead, extending from the A554 near to RES-RA3.4, across Hamilton Square, as far west as Craven Street near Birkenhead Park. Whilst there is much existing development, we saw how there are extensive areas of under-used land, notably around Hamilton Street, Price Street and at the fringes of Birkenhead Town Centre. RA4 is also bisected by the historic Dock Branch, disused since the early 1990s, to which Plan policies MPA-RA4.2 and MPA-RA4.3 relate.
321. Notwithstanding that the re-use of the Dock Branch is a longer-term project, in our view there is significant potential for the re-use of land and intensification here, building on the area's industrial heritage. There are also tentative signs of increasing investment and market confidence in RA4, notably the completed office buildings opposite RES-RA4.1. We note that the Draft Birkenhead Regeneration Framework 2040 sets out that there is the potential for at least 980 new homes in this area.
322. That said evidence presented by the Council at examination was insubstantial as to where existing opportunities for redevelopment would necessarily arise relative to existing uses. The approach in the Plan is moreover complex. RES-RA4.1 is, for example, within MPA-RA4.1, which abuts MPA-RA4.3. MPA-RA4.3 in turn runs through the Queensway Regeneration Gateway, subject to policy WS6.2. Furthermore the boundary in the St. Werburgh's Quarter Masterplan, transgresses both RA4 and RA5. It appears, moreover, that the overarching figures anticipated from RA4 in the Draft Central Birkenhead Neighbourhood Framework and Draft Birkenhead Regeneration Framework 2040 may account for allocations RES-RA4.1, RES-RA4.2 and RES-RA4.3 as opposed to being distinct from them.
323. Taking account of this, in particular avoiding any double counting between allocations and the ODA, in our view a reasonable expectation in terms of likely delivery from the RA4 ODA is some 624 dwellings from 2028/29 onwards through to 2039/2040. That would be reflected via incorporating **MM25** for effectiveness.

## Regeneration Area 5, Hind Street ('RA5')

324. There are 2 Masterplan Areas at RA5, MPA-RA5.1, the 'Hind Street Urban Garden Village Masterplan Area', and MPA-RA5.2, the 'St. Werburgh's Masterplan Area'. In the Plan as submitted there is only one residential allocation at RA5, RES-RA5.1, 'Land at Hind Street' Tranmere, a site of 14.65ha said to be capable of delivering 1,400 units which falls within MPA-RA5.1. Masterplanning work at MPA-RA5.1 is being developer-led, working in conjunction with the Council.
325. Allocation RES-RA5.1 was something of a focus of the examination in respect of viability, notably as it reflects broader arguments regarding viability exercises and what might be termed 'real world' outcomes. There is also an ODA at RA5, which the Plan sets out would be capable of delivering 240 units over the Plan period, notwithstanding that the Council advanced a figure of 170 units instead at examination in the light of work progressing on the Draft St. Werburgh's Masterplan.
326. In respect of RES-RA5.1, an outline planning application was submitted for land incorporating the site on 14 August 2023.<sup>36</sup> We understand that was validated on 23 August 2023. That application appears, however, to relate to a site amounting to 26.27ha instead of the 14.65ha site allocation. As such the intention to provide 1,600 units, in the application, relates to a broader area than the 1,400 units expected via the Plan in respect of MPA-RA5.1 specifically. As such, caution is due in respect of the site allocation capacity.
327. Notwithstanding that the Council own approximately 90% of the RES-RA5.1 site, we understand that there are various matters to be addressed in practice, including in respect of utilities, infrastructure, and ground conditions. Those are likely to reduce overall numbers and delay delivery. Moreover 1,400 units delivered across a site of 14.65ha amounts to a density of 96dph, significantly in excess of the minimum 60dph in the 'Urban Core & Town Centres Density Zones', RES-DZ2, in which the site falls; along Argyle Street opposite, 2 storey Victorian terraced properties predominate.
328. We note that the Strategic Housing Land Availability Assessment indicated an estimated capacity of 580 dwellings on a site of 7.9ha here, which appears a more realistic density of around 73dph. That level of density, moreover, broadly aligns with the figure of 639 dwellings given at the hearings in respect of phases A and B of the planning application.<sup>37</sup> Mathematically the site being delivered at around 73dph would generate a figure of 1,069 dwellings.

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<sup>36</sup> Ref. OUT/23/01259.

<sup>37</sup> Ref. OUT/23/01259.

329. On account of the site constraints, surrounding context, and taking account of the revised site area of 15.79ha advanced by the Council at examination in the light of ongoing masterplanning work, in our view a level of density closer to 60dph appears more realistic indicating an overall capacity for some 960 units, as would be reflected via **MM26**. **MM26** is necessary for effectiveness, which in this respect amends policy RES-RA5.1 to give a minimum dwelling capacity of 960 units.
330. On paper, RES-RA5.1 is unviable at present without significant subsidy. That said, we understand that there has been strong progress towards securing funding of £45.2 million in respect of the site. The developers, who specialise in regeneration schemes, have a business model premised on accepting a significantly lower return on capital invested compared to other volume housebuilders.
331. To suggest that RES-RA5.1 is deliverable is clearly unrealistic. Nevertheless, in the light of the evidence, in our judgement the site may nonetheless be considered developable. Applying lead in times in respect of the Strategic Housing Land Availability Assessment, and with reference to planning determination periods in Start to Finish, the second edition of which was referred to at the hearings, there is a reasonable prospect of completions from 2028/29, i.e. Plan year 6 onwards.
332. It is challenging to understand the Council's position in the Plan as submitted that 240 units would likely come forward at the RA5 ODA. The Draft Birkenhead Regeneration Framework 2040 instead looks towards a potential scale of change in this area of 'over 850 homes' [BR1, page 139].
333. The St. Werburgh's Quarter Masterplan appears to diverge from the Draft Birkenhead Regeneration Framework 2040 in looking towards improving connectivity and establishing a mixed use quarter and market rationally reflecting its proximity to Birkenhead town centre (as opposed to a principal focus on residential development). As with other areas of Birkenhead, despite its central location there are a number of vacant sites here. We note that the former House of Fraser site off Grange Road and its car park were purchased by the Council in 2021. As such the anticipated delivery of around 170 dwellings in the RA5 ODA is reasonable, as should be reflected via **MM26** which, for effectiveness, amends the minimum dwelling capacity in the Plan at policy RA5.

## Regeneration Area 6, Wirral Waters ('RA6')

334. RA6 incorporates 6 residential allocations,<sup>38</sup> 5 employment allocations,<sup>39</sup> and 3 masterplan areas.<sup>40</sup> In total RA6 is intended to account for 3,234 homes and 22.37ha of employment land.
335. RES-RA6.2 is 'Wirral Waters – Vittoria Studios and Sky City', a 7.24ha site, horseshoe-shaped around Vittoria Docks. The Plan as submitted indicates a capacity of 2,200 units. At examination hearings the Council indicated that the site area was in actuality 12.3ha, and suggested that the site has an approximate capacity for 2,950 to 3,400 dwellings when fully built out. We understand that the latter figures are apportioned from the broader outline planning permission related to Wirral Waters for a maximum of 13,521 units.<sup>41</sup>
336. The divergence between the figure in the Plan and associated evidence arises by virtue of an acknowledgement that the site will only likely be fully built out over a longer timeframe; we understand that there has been some form of planning permission in place for more than a decade. In our view a suitably precautionary anticipated delivery over the modified plan period would be approximately 1,700 dwellings (including reflecting that, at the time of examination hearings, reserved matters applications in relation to Vittoria Studios had been submitted to the Council in May 2022 but remained undetermined).<sup>42</sup>
337. We acknowledge that delivery at RES-RA6.2 will be contingent on securing significant public sector funding, the Council forecasting a viability deficit here of between £48,890 and £79,869 per unit. Some existing funding has, however, been secured. The developer is engaged with Homes England regarding funding in the region of £35,000 per unit. Taking account of progress demonstrated through reserved matters applications, and consistent with our reasoning that the Plan will itself create momentum, in our view it is reasonable to anticipate delivery here from 2028/29 onwards. That has the effect of reducing anticipated delivery over the Plan period, which should be accurately reflected in **MM27** for effectiveness.
338. There is a close inter-relationship between RES-RA6.3 and RES-RA6.4, sites of 0.8ha and 1.50ha respectively in relation to which the Plan anticipates delivery of 120 and 230 units. In respect of RES-RA6.3, 30 homes were completed in 2022/23. We understand that application followed £6 million Housing Infrastructure Funding having been secured. We also heard at the hearing

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<sup>38</sup> RES-RA6.2, RES-RA6.3, RES-RA6.4, RES-RA6.5, RES-RA6.6 and RES-RA6.7.

<sup>39</sup> EMP-RA6.1, EMP-RA6.2, EMP-RA6.3, EMP-RA6.4 and EMP-RAS6.5.

<sup>40</sup> MPA-RA6.1, MPA-RA6.2 and MPA-RA6.3.

<sup>41</sup> Ref. OUT/09/06509.

<sup>42</sup> Ref. DLS/22/00939 and DLS/18/00717, the former for 891 units amongst other development, the latter for 924 (amounting to 1,815 in total).

session on 18 October 2023 that 9 of those units had sold, with various other sales in progress.

339. Whilst further delivery has to date been delayed, there is now a new developer lined up. At the time of examination hearings an application for subsequent phases was expected imminently. Accordingly, there is a realistic prospect that further housing will be delivered on RES-RA6.3 within 5 years. That said, with reference to the lead-in times in the Strategic Housing Land Availability Assessment and Start to Finish, in our view completions would likely only occur in the 2027/28 monitoring year onwards, at 30dpa consistent with development delivered to date.<sup>43</sup>
340. RES-RA6.4 is for 230 units across a site of 1.50ha resulting in a comparable density as at RES-RA6.3. The Council initially forecasted completions there as occurring by 2023/24. That was evidently overly optimistic, and we note that delivery relative to expectations at Wirral Waters have shown a tendency of slipping over time, reflecting both the nature of the area and timescales involved in regeneration projects. Moreover, delivery at RES-RA6.4 is contingent on securing detailed planning permission, public subsidy, and land remediation which is inherently subject to some uncertainty.
341. In some form or another, land clearance, remediation and utility provision has, however, been undertaken for over a decade. The site benefits from outline planning permission. At the time of the examination hearings a detailed application related to the site was expected in early 2024. Consequently, there is a reasonable prospect of development occurring beyond the Plan's 5 year bracket of 2023/24 to 2027/28.
342. RES-RA6.5, a site of 0.50ha by Tower Road is allocated in the Plan for 150 dwellings, a comparable level of density to RES-RA6.2. It is within the Dock Road Gateway area subject to Plan policy WS6.2, which is supportive in-principle of landmark buildings. As such a comparatively high level of density relative to RES-RA6.7 and RES-RA6.3 eastwards of it is rational, taking suitable account of the setting of the grade II listed Dock Gateman's Hut.
343. More broadly we note that large scale development is somewhat characteristic of the area's industrial past in any event.<sup>44</sup> RES-RA6.5 is currently a cleared site, we understand used as a compound associated with bridge repairs. Notwithstanding the absence of detailed planning permission the site is developable.
344. RES-RA6.6, a site of 2.16ha by Duke Street, is allocated in the Plan for 500 units, thereby representing a gross density of 232dph. That capacity is based on

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<sup>43</sup> Pursuant to planning permission ref. APP/19/01061.

<sup>44</sup> As reflected in the form of the grade II grain warehouses between RES-RA6.3 and RES-RA6.4.

full planning permission, development there at the time of examination hearings well underway. There is no substantive evidence indicating other than that delivery will accord with the Council's anticipated delivery trajectory, namely in Plan years 2 and 3, 2024/25 and 2025/26. We note that progress on that site did not require as significant public subsidy as has been suggested would be necessary on paper, demonstrating that delivery at relative high density is achievable here.

345. RES-RA6.7 is a site of 0.50ha is part of a wider 72 care spaces facility in relation to which 34 units are anticipated, consistent with the Council's distinction between C3 and C2 in monitoring data as above. The capacity there is consistent with full planning permission for the site, notwithstanding that delivery has slipped from 2023/24 to 2025/26 [BP1, WBC046].
346. In respect of employment allocations, reflecting that there is very limited capacity at EMP-RA6.1 given the extant employment use of the majority of the site, the site area there should be amended from 1.8 to 0.3ha which, for effectiveness would be achieved via **MM27** amending Plan policy RA6 in that respect. Notwithstanding the reference to site 19 in the 2021 Wirral Employment Land and Premises Study, similarly accurately reflecting the extent of land available at EMP-RA6.2, the site capacity there should be amended from 8.84ha in the Plan as submitted to 5.35ha as would be reflected via **MM27**.
347. In relation to EMP-RA6.3, 'MEA Park East', a 9.02 ha site, criteria 1 and 3 to that policy, alongside the overarching approach in the Plan, provide an appropriate basis for decision-taking, including recognising the relationship of that site to the Port and Maritime Zone. Bearing that context in mind, allocation EMP-RA6.4, a 1.76ha site 'MEA Park Phase 2' should also refer to port related uses via **MM27**, the implications in respect of the potential for the site to contain Open Mosaic Habitat addressed previously. Whilst we understand that the delivery of the site was previously 'shelved' in lieu of other work, there is nothing to indicate it would be unsuitable for the uses proposed.
348. Site EMP-RA6.5 amounts to 0.95ha of previously developed land next to the grade II listed hydraulic tower, and benefits from planning permission for mixed use development. Whilst we acknowledge that 'Research & Development, Education, Training, Offices and Café' use is not wholly within B2 or B8 Use Classes, those are nevertheless employment related uses related to industrial heritage and regeneration. As such there is justification for employment allocations at RA6.

### **Regeneration Area 7, Hamilton Park ('RA7')**

349. The Draft Hamilton Park Neighbourhood Framework relates to this 82ha area [BR5]. Broadly, RA7 is north of Birkenhead Park between Park Road North and

Corporation Road by Vittoria Dock, the southern boundary of RA6 and MPA-RA6.1. To the east it extends as far as Russell Street, and to the west projects slightly further than Duke Street. RA4 is characterised principally by historic residential development closer to Birkenhead Park and commercial development between Price Street and Corporation Road. Whilst there are active employment uses, much land is used at relatively low intensity and there are occasional vacant sites.

350. RA7 contains only one allocation for employment, EMP-RA7.1, 'Kern's Warehouse', a site of 0.98ha off Cleveland Street for employment uses. It encompasses, however, 3 mixed urban areas, MUA-RA7.1, MUA-RA7.2 and MUA-RA7.3, one masterplan area, MPA-RA7.1,<sup>45</sup> and an ODA said in the submitted Plan to be capable of delivering approximately 1,025 units. As occurred in other locations, at examination, the Council instead suggested alternative figures from the RA7 ODA of 1,125 [WBC046], 1,200 [MP5], or 1,300 units [BR1, page 149].
351. In our view, having visited RA7 extensively, particular caution is necessary in determining likely levels of development at the ODA here for 4 principal reasons. Firstly, as elsewhere, delivery will require significant involvement by the public sector. Secondly, the area is characterised by a number of landowners. Thirdly, unlike in respect of other ODAs, the Council owns limited land at RA7. And fourthly, if the Plan's approach is excessively skewed towards residential intensification, there is a risk of displacement of existing uses.
352. As above MPA-RA7.1 falls within RA7, to which the Cleveland Neighbourhood Strategic Framework of August 2023 relates covering an area of 17.5ha [MP5]. MPA-RA7.1 falls within the Waterfront Density Zone, RES-DZ1, where a minimum of 70dph is expected. On a precautionary basis if only 40% of the 1,200 dwellings anticipated here were to come forward, a reasonable estimate would be of the delivery of 40 dwellings a year.
353. Numerically that could be accommodated consistent with RES-DZ1 on less than 7ha, less than a tenth of the total area of RA7. In our view that is a reasonable prospect. The above reasoning in respect of RA7 should be reflected via **MM28**. **MM28** is necessary for effectiveness in clarifying that the RA7 ODA should have a minimum dwelling capacity of 482 units, **MM28** also containing revised wording in respect of heritage for consistency with national policy in that respect.

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<sup>45</sup> The 'Britannia Residential Led Mixed Use Neighbourhood Masterplan Area' as in the Plan as submitted, or the Cleveland Street Neighbourhood as referenced earlier in this report.

## Regeneration Area 8, Northside ('RA8')

354. Within RA8 there are two employment allocations EMP-RA8.1, for 6.28ha at Limekiln Lane, which Plan paragraph 4.150 explains is intended to provide land for 'decanting of existing businesses that need to relocate as a result of the implementation of urban regeneration projects across Birkenhead'. Allocation EMP-RA8.2, the 'SMM Business Park' at Dock Road is for 6.83ha, albeit that Plan paragraph 4.152 recognises that the site is 'currently occupied by a number of tenants on a flexible basis who mainly utilise the site for open storage uses...'.

355. Whilst we accept that the 2021 Wirral Employment Land and Premises Study site no.14 was limited to a proportion of EMP-RA8.1, there is nevertheless extensive and ostensibly vacant land next to it (between Limekiln Lane and the A59 and also towards Old Gorse Lane). We were told at the hearing on 18 October 2023 that the acquisition of the site is, furthermore, within the Council's capital programme and nearing completion.

356. In our view site characteristics are not a reason to reduce employment site areas but instead principally a matter to be addressed in scheme design. EMP-RA8.1 is within the Freeport Zone, and significant in terms of facilitating the regeneration strategy at Wirral Waters. Whilst we acknowledge that offering decant space to existing uses from elsewhere does not generate new employment uses, as part of that process there is nevertheless the ability to improve and add to provision, notwithstanding the existence of much surplus employment land in Wirral as above. As such allocation EMP-RA8.1 is justified.

357. EMP-RA8.2 is tenanted by around 15 businesses on individual tenancies. The 2021 Wirral Employment Land and Premises Study sets out that 'the site should not be included in the Borough's ongoing land supply until the availability of the site for further redevelopment has been confirmed'. Nevertheless, the site is allocated in the Plan as the landowner has indicated an interest in its redevelopment and given that the occupants are on short term tenancies.

358. In the light of subsequent discussions with the landowner in August 2022, reflecting which buildings they intended to retain, the Council advanced a revised site area of 5.38ha for EMP-RA8.2. In that context, and given that there is potential for more efficient or intensive use of the site compared to present, its allocation is justified. For effectiveness, however, the site area for EMP-RA8.2 should be revised to 5.38ha via **MM29**. We would also note that monitoring indicators will enable precise accounting for change in employment space over time.

## Other SA2 allocations

359. Within wider SA2 there are a further two employment sites, EMP-SA2.1 for 5.52ha at Cammell Laird South, and EMP-SA2.2 for 1.06ha at Twelve Quays, north of Tower Wharf. The former, assessed as a good quality site in the 2021 Wirral Employment Land and Premises Study [EE5, site 92] benefits from planning permission.<sup>46</sup> The allocation of both, consistent with our earlier reasoning in respect of port related uses and Open Mosaic Habitat, is justified.

## Settlement Area 3, Suburban Birkenhead ('SA3')

360. At SA3, notwithstanding the absence of regeneration areas or masterplan areas, the Plan allocates 7 residential sites,<sup>47</sup> and one employment site.<sup>48</sup>

361. RES-SA3.1, the 'Former Gladstone Liberals, Dial Road, Tranmere' is a site of 0.29ha, now a vacant social club and bowling green. That site benefits from outline planning permission for the redevelopment of the site for 31 dwellings, approved in December 2021.<sup>49</sup> Whilst the Council set out at the relevant examination hearing session that reserved matters were anticipated soon, that does not amount to clear evidence of housing completions beginning within 5 years, but instead to a reasonable prospect of delivery in time. Were reserved matters applications submitted soon and determined quickly, completions would likely fall in 2028/29, Plan year 6.

362. Density at RES-SA3.1 is approximately 107dph, despite the site falling within VZ-1 and the 'Transit Area' density zone RES-DZ3 under policy WS 3.2 where a minimum density of 50dph is advocated. As with RES-RA6.6, also within VZ-1 but instead the 'Waterfront' Density Zone, RES-DZ1, where a minimum density of 70dph is advocated, planning permission at RES-SA3.1 demonstrates that there is the potential for significantly denser development than that which currently prevails, and market appetite for undertaking it.

363. RES-SA3.2, 'Redcourt School, 7 Devonshire Place, Oxton' is a site of 0.25ha, notwithstanding Strategic Housing Land Availability Assessment site 5151 referring to a larger area of 0.76ha ostensibly incorporating the former St. Anselm's Junior School. Whilst the School is grade II listed, planning permission was granted for its conversion and for 30 new build flats via decision of October 2021.<sup>50</sup> Allocation RES-SA3.2 is therefore deliverable, now likely in 2025/26.

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<sup>46</sup> Ref. APP/22/00334.

<sup>47</sup> RES-SA3.1, RES-SA3.2, RES-SA3.3, RES-SA3.4, RES-SA3.7, RES-SA3.8 and RES-SA3.9.

<sup>48</sup> EMP-SA3.1.

<sup>49</sup> Ref. OUT/21/00496.

<sup>50</sup> Ref. APP/20/01084.

364. Development at RES-SA3.3 was, at the time of the hearing on 19 October 2023, underway pursuant to full planning permission secured in 2020, with the bulk of 43 completions expected in 2024/25. For effectiveness, allocation RES-SA3.4 should be removed from the Plan's housing trajectory as 15 homes at Atherton Hall have now been completed as would be achieved via **MM35**. RES-SA3.7 and RES-SA3.8, both Appendix 18 allocations, should be deleted in line with our reasoning above.
365. RES-SA3.9, 'Former Christ Church', has a site of 0.06ha where the Plan envisages delivery of 16 dwellings. As there is no planning permission in place, in the light of needing to address site constraints including the fire-damaged remnants of the Church itself, a reasonable expectation is for 10 dwellings in years 2028/29, as opposed to the more optimistic 2026/27 as in the Strategic Housing Land Availability Assessment [H7.2, site 996].
366. Site EMP-SA3.1 is 'Land west of Prenton Way, North Cheshire Trading Estate, Prenton', a site of 0.58ha assessed via the 2021 Wirral Employment Land and Premises Study [EE5, sites 88 and 89]. Whilst that is a longstanding allocation, it is nevertheless described in the 2021 Wirral Employment Land and Premises Study as 'an attractive development plot' being one of only two plots available related to the North Cheshire Trading estate, and with good motorway proximity [EE5, paragraph 9.52]. As such its allocation is rational. We note that, subject to **MM62**, which is necessary to ensure consistency with national policy in respect of main town centre uses, the term 'main employment uses' is sufficiently broad in terms of potentially suitable uses.

## Settlement Area 4, Bebington, Bromborough and Eastham ('SA4')

367. In SA4 there is one Regeneration Area, New Ferry, 'RA11', which, rationally the Council propose aligning the boundary of to match that of the New Ferry Masterplan Area, MPA-RA11.1. There are 2 further masterplan areas, MPA-SA4.1 and MPA-SA4.2. Within RA11 there are 5 residential allocations.<sup>51</sup> There are a further 11 residential allocations within SA4,<sup>52</sup> and 5 employment allocations.<sup>53</sup>
368. In respect of residential allocations, RES-RA11.1, a site of 0.09ha at 43 Bebington Road is anticipated in the Plan to deliver 20 dwellings. RES-RA11.1 interrelates with RES-RA11.3, 'Land at Grove Street', a site of 0.29ha which the Plan anticipates has a capacity of 14 units. Full planning permission for both sites was approved in April 2023,<sup>54</sup> and as such, and in the absence of clear

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<sup>51</sup> RES-RA11.1, RES-RA11.2, RES-RA11.3, RES-RA11.4 and RES-RA11.5.

<sup>52</sup> RES-SA4.1, RES-SA4.2, RES-SA4.3, RES-SA4.5, RES-SA4.6, RES-SA4.7, RES-SA4.10, RES-SA4.11, RES-SA4.16, RES-SA4.17 and RES-SA4.18.

<sup>53</sup> EMP-SA4.1, EMP-SA4.2, EMP-SA4.3, EMP-SA4.4 and EMP-SA4.5.

<sup>54</sup> Ref. APP/22/02137.

evidence that homes will not be delivered within 5 years, both sites should be considered deliverable, with completions likely in 2025/26.

369. Based upon the evidence before us we consider that the capacities of both RES-RA11.2 Woodhead Street Car Park and RES-RA11.5 100 New Chester Road should be reduced within Policy RA11 to 29 and 10 units respectively. This is achieved through **MM32**. However, given the evidence presented at the examination hearings in respect of progress made between the Council and a developer partner for both sites, we expect delivery from 2026/27 for the Woodhead Street Car Park site and in 2028/29 for the New Chester Road site.
370. We note that the landowner of RES-RA11.4, in the Plan 'Site of 78, 78A and 82 Bebington Road, New Ferry' no longer intends to bring forward the site for development. The allocation is not therefore justified and should be deleted via **MM32**, an amendment to policy RA11 relative to the version of that MM consulted upon.
371. RES-SA4.1 'Land at Civic Way, Bebington' is a site of 0.84ha for approximately 60 dwellings, currently a car park and cleared grassland, following the demolition of former Bebington Town Hall and associated buildings.<sup>55</sup> We acknowledge that there is no planning permission in place, and heard how delivery at this site had slipped from indications in the Strategic Housing Land Availability Assessment. However, the site is cleared and included within the Council's 'disposal programme to be progressed to sale during the third quarter of 2023' [WBC031d, paragraph 6.9]. It is also within VZ-3, and there is no indication of any constraints likely to impede delivery as opposed to necessarily being addressed in scheme design. There is a realistic prospect of this site being deliverable.
372. RES-SA4.2, is the 'Former MOD, Old Hall Road', as referred to earlier in this report. RES-SA4.2 and RES-RA4.3, 'Riverside Office Park', have a combined area of approximately 14.50ha and their delivery in conjunction with one another is rational, both relating to masterplan MPA-SA4.2 and being separated only by Warren Lane, OS-SA4.55. We acknowledge that these sites were found in the Strategic Housing Land Availability Assessment either to be not available or unsuitable for residential development. Both, however, benefit from outline planning permission for up to 249 and 217 dwellings respectively, approved in December 2022.
373. RES-SA4.2 is also within the Council's disposal programme. At examination we heard evidence that the landowner in respect of allocation RES-RA4.3 is looking to dispose of the site following a number of bids to a recent marketing exercise [WBC031d]. The Council set out at the hearing session on 19 October 2023 that the site had instead been sold to a national housebuilder, whose stated

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<sup>55</sup> Pursuant to permission ref. DEM/16/01101.

intention is for delivery within 5 years. As such anticipating delivery towards the tail end of the Plan's 5 year period and beyond is, in our view, reasonable.

374. RES-SA4.5 is the 'Eastham Youth Centre, Lyndale Road', a site of some 0.41ha including a vacant youth centre, which the Plan anticipates has a capacity of 15 dwellings. Notwithstanding the absence of planning permission at the time of the examination hearings, that site is Council controlled and being progressed via the Wirral Growth Company, with both funding secured for development and contracts in place in that respect. In our view there is a realistic prospect that housing will be delivered on site within 5 years.

375. RES-SA4.6 'Former Croda, Prices Way' is a 4.62ha site the Plan anticipates will deliver approximately 100 dwellings. We consider that the boundary of the allocation should be reduced to 3.97ha to exclude the former Candle Factory building which has already been converted to residential and part of the site which remains as industrial. We understand that a planning application has been submitted,<sup>56</sup> and is being brought forward by a housebuilder, who have indicated their intention to deliver in full by 2027/28. The application was for 124 dwellings rather than the 100 set out in the Plan. As such RES-SA4.6 is deliverable. The change to both the area and likely yield from the allocation as set out in **MM36** is justified and necessary for soundness.

376. RES-SA4.7 is 'Former D1 Oils, Dock Road South' which the Plan anticipates has an approximate capacity of 1,225 dwellings. The site is in 2 parcels and outline planning applications have been submitted for each parcel by the respective landowners. The site is to be developed in accordance with a comprehensive master plan and there is a significant degree of momentum from the landowners, the Council and funding partners to make quick progress on the regeneration of this former industrial site. Given the evidence before us, particularly around some environmental and design constraints, however, we consider that it is more appropriate to assume a delivery of around 1,000 units rather than the 1,225 set out in the associated Statement of Common Ground, as should be reflected via **MM36** amending policy RES-SA4.7, which is necessary for effectiveness.

377. RES-SA4.11 is 'Unilever Research, Quarry Road', a 3.24ha site which the Plan anticipates has an approximate capacity of 120 dwellings. We note that a planning application for 127 dwellings was, at the time of the hearing session on 19 October 2023, with the Council.<sup>57</sup> We understand that a revised approach to highways matters had been proposed at that juncture, subject to which the Council were minded to grant permission. In our view RES-SA4.11 should be considered deliverable.

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<sup>56</sup> Ref. APP/22/01890.

<sup>57</sup> Ref. APP/22/01759.

378. There are four small sites which should be deleted as allocations as they all have capacity of less than 10 dwellings and cannot be justified as individual allocations in accordance with our suggested approach to Appendix 18 sites as set out above, allocations RES-SA4.10, RES-SA4.16, RES-SA4.17 and RES-SA4.18.
379. Turning to employment allocations, in respect of EMP-SA4.1, 'Land South of Riverbank Road', we consider that the Council's calculation of the site area of 1.01ha is justified (notwithstanding that the site contains a copse of trees by the northern boundary). For similar reasons we are not of the view that any landscaping associated with site EMP-SA4.2, 'Sun Valley expansion' necessitates a reduction to the site area of 0.97ha.
380. We are told that site EMP-SA4.3 has planning permission for a variety of potential uses (B2, B8, E and A3).<sup>58</sup> There is no evidence before us substantiating a reduction to that site discounting A3 use or whether that will necessarily be brought forward. In relation to EMP-SA4.4, the 2021 Wirral Employment Land and Premises Study, refers to the site as being retained as 'expansion land' associated with neighbouring Tulip Limited. Even if that land were to be used as part of the expansion of Tulip Limited, that would amount to the provision of employment land, notwithstanding that there is no indication that Tulip Limited still hold an interest here. Therefore, the allocation of 2.05ha of land for employment use at EMP-SA4.4 is justified.
381. We understand that site EMP-SA4.5, some 9.28ha of previously developed land at the North Road Business Park, has planning permission for 'Development of up to 500,000sqft (46,450sqm) of B2/B8 Use Class floorspace, with ancillary B1(a) Use Class floorspace', as such its inclusion is justified.

## **Settlement Area 5, Mid Wirral, Leasowe, Moreton, Upton, Greasby, Woodchurch and Saughall Massie ('SA5')**

382. In SA5 the Plan allocates 12 residential sites,<sup>59</sup> and 4 employment sites.<sup>60</sup> Of those residential allocations, however, 6 are Appendix 18 allocations, to be deleted via **MM72**.
383. RES-SA5.1 inter-relates with RES-SA5.2 and RES-SA5.7 and to a hybrid planning application. At examination we were told that Members reached the position on 27 April 2023 that they were minded to approve that application subject to agreed planning obligations. At the relevant examination hearing on this site we heard that an agreement under section 106 of the Town and

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<sup>58</sup> Ref. APP/21/01631.

<sup>59</sup> Residential sites RES-SA5.1, RES-SA5.2, RES-SA5.3, RES-SA5.4, RES-SA5.5, RES-SA5.7, RES-SA5.8, RES-SA5.9, RES-SA5.11, RES-SA5.12, RES-SA5.13, and RES-SA5.14.

<sup>60</sup> Employment sites EMP-SA5.1, EMP-SA5.2, EMP-SA5.3 and EMP-SA5.4.

Country Planning Act 1990 as amended was with the Council for engrossment. We also heard how the site covered by the hybrid application was being sold to different developers intending to undertake different elements of the scheme.

384. Whilst the planning application supports the anticipated delivery of 125 dwellings across these 3 allocations, notwithstanding the observation that RES-SA5.2 may relate to the delivery of 6 rather than 8 dwellings, in the absence of planning permission, and as RES-SA5.1 and RES-SA5.7 were not within the control of developers, there is no clear evidence that housing completions will begin on site within five years. Reflecting that significant progress has, however, been made, our view is that delivery is likely in Plan years 6 and 7, 2028/29 and 2029/30, as would be reflected via **MM37** amending policy WP5.1.
385. Site RES-SA5.3 relates to a site of 5.01ha off Reeds Lane next to residential development along Reedville Grove, with residential development also to the north beyond the River Birket. In our view site specific circumstances are capable of being appropriately addressed in scheme design. We understand that the current site owner intends to dispose of RES-SA5.3 when it is allocated, and therefore delivery across Plan years 6, 7 and 8 is likely.
386. At 5.01ha residential development of 100 homes at RES-SA5.3 would represent a density of less than 20dph. That would be significantly lower than the 30dph minimum expectation in Plan policy WS3.2. For consistency with policy WS3.2 in that respect, in our view anticipated delivery from RES-SA5.3 would realistically be around 150 dwellings, as would be reflected via **MM37**. **MM37** amends the minimum dwelling capacity at RES-SA5.3 in that respect and is necessary for effectiveness. Density around that level would also provide sufficient flexibility in terms of integrating with its surrounding context including the River Birket Corridor, OS-SA5.23, and employment allocations EMP-SA5.2 and EMP-SA5.3.
387. RES-SA5.4 is a site of some 1.44ha entitled 'Former Foxfield School'. We understand some of that site is former playing fields, albeit now surplus on account of the School having relocated. Notwithstanding the delivery trajectory in the Plan as submitted, we were told at the hearings that a full planning application was made on 29 September 2023 for 66 dwellings.<sup>61</sup> Taking account of Strategic Housing Land Availability Assessment lead-in times, in our view delivery is more likely in years 5 and 6 of the Plan.
388. Although there was a dismissed appeal in 2022 for 46 flats at RES-SA5.5, the Former Stirrup Public House, that site has previously secured permission for the development of 15 dwellings.<sup>62</sup> At the time of the examination hearings there was a subsequent application with the Council on the same basis. In our view

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<sup>61</sup> Ref. APP/23/01524.

<sup>62</sup> Ref. APP/19/00063.

15 dwellings would therefore be deliverable, likely towards the tail end of the 5-year bracket. Planning permission in respect of RES-SA5.8 lapsed in September 2023,<sup>63</sup> which in our view justifies its inclusion only in year 6 or the developable category rather than in 2023/24 as previously envisaged by the Council. For effectiveness Plan policy RES-SA5.8 should be amended in that respect, namely deleting the anticipated delivery timescale of 2023/24 onwards, as would be achieved via **MM37**.

389. Whilst we accept that there may be some reduction to the developable area at EMP-SA5.1 in pursuit of criterion 2 of policy WP5.2, notwithstanding our reasoning above, that is not necessarily significant. The allocation of EMP-SA5.1 for 1.1ha of employment use is therefore appropriate.

390. Allocations EMP-SA5.2 for 1.46ha, EMP-SA5.3 for 1.93ha and EMP-SA5.4 for 0.25ha are justified as allocations, notwithstanding that the caveat that EMP-SA5.1, EMP-SA5.2 and EMP-SA5.3 should relate to 'industrial processes, research and development...' is unjustified and inconsistent with other allocations and should be deleted via **MM37**. **MM37** is furthermore necessary for consistency with Framework paragraph 16.d) so that there is a clear and unambiguous basis for decision-taking. That would similarly be achieved by other modifications related to the wording of site-specific criteria in other areas, namely **MM34** and **MM36**.

## Settlement Area 6, West Kirby, Hoylake and Meols ('SA6')

391. There are 8 residential allocations in SA6,<sup>64</sup> and one masterplan area.<sup>65</sup> We have taken careful account of the extensive evidence before us related to RES-SA6.4, 'Land at Grange Hill Farm' including in respect of consultation [DSH04].

392. We recognise that the allocation of site RES-SA6.4 is strongly opposed locally for various reasons, including in relation to the covenants in respect of the site. The Council gave evidence, however, that the site could be appropriately developed and that the current covenant issue could be resolved. We have not seen any demonstrable evidence which would prevent this site from being allocated nor would unduly restrict its ability to be delivered. We consider that the expected delivery of around 35 homes for this site is appropriate given the evidence.

393. Development of this nature on the site may affect the setting of the Grade II\* Hoylake and West Kirby War Memorial, and the perceptual experience in certain elements of the adjoining Grange Hill, Greenbank Cemetery and

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<sup>63</sup> Ref. APP/18/01284.

<sup>64</sup> RES-SA6.4, RES-SA6.5, RES-SA6.6, RES-SA6.7, RES-SA6.8, RES-SA6.9, RES-SA6.10 and RES-SA6.11.

<sup>65</sup> MPA-SA6.1.

Community Park, OS-SA6.5. Effects in those respects will inevitably be important factors in the design of any scheme and the policy sets out requirements for this. These are factors for which the design of the proposed development would need to take into account, not ones which would preclude the principle of development. The allocation is therefore justified.

394. RES-SA6.5, RES-SA6.6, RES-SA6.7, RES-SA6.8, RES-SA6.9, RES-SA6.10 and RES-SA6.11, which are indicated in the Plan to have a collective capacity of 23 dwellings, are Appendix 18 allocations which would be deleted pursuant to **MM72** for the reasons given earlier in this report. **MM38** incorporates the above reasoning, insofar as necessary, in respect of SA6.

### **Settlement Area 7, Irby, Thingwall, Pensby, Heswall and Gayton ('SA7')**

395. In SA7 there are 6 residential allocations.<sup>66</sup> RES-SA7.2, the 'Former Heswall Gospel Hall' has full planning permission for redevelopment for 23 flats,<sup>67</sup> and in our view is deliverable. RES-SA7.3, for 3 dwellings, RES-SA7.4, for a single dwelling, RES-SA7.5 for 3 dwellings, and RES-SA7.9 for 2 dwellings are, however, Appendix 18 allocations which would be deleted pursuant to our earlier reasoning. RES-SA7.6 was, additionally, completed in 2020/21.

### **Settlement Area 8, the Rural Area ('SA8')**

396. The Plan makes no site allocations in SA8, and as such we address the implications of the Plan in this respect principally under the 'rural economy and agriculture' section in issue 4, and also the approach to the Green Belt under issue 7.

## **Conclusion**

397. Subject to the MMs above, the area-based approach in the Plan, including allocations, are consistent with the Plan's strategy and justified.

### **Issue 7: Is the Plan's approach deliverable?**

398. **MM1** to the introduction to the Plan is necessary to make it clear that housing and employment needs can be met, but subject to delivery. That is to accord

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<sup>66</sup> RES-SA7.2, RES-SA7.3, RES-SA7.4, RES-SA7.5, RES-SA7.6 and RES-SA7.9.

<sup>67</sup> Ref. APP/19/00636.

with Framework paragraph 16,b), namely that plans should be 'prepared positively, in a way that is aspirational but deliverable'.<sup>68</sup>

## Slippage

399. Slippage is a concept that the Council have applied to the mechanics of forecast housing calculations. Slippage refers to the potential that certain sources of anticipated supply may not deliver in full as anticipated, comparable to a lapse or non-implementation rate. The Council have applied a 10% slippage rate to 'commitments/ sites with planning permission', regeneration areas and settlement areas. That appears also as a '10% discount' in Plan table 3.2.

400. At the examination hearing on 13 September 2023 the Council confirmed that slippage applies to anticipated delivery from site allocations, but not to 'allowances'. Within the terminology of the Plan, table 3.2 and footnote 38, allowances are 'net gains from conversions and changes of use, new build windfalls and the return to use of empty homes'.

401. Slippage rationally reflects that allowances are founded upon evidence of historic trends, whereas delivery from allocations has greater potential to change without a comparably robust evidential underpinning. Although 10% is a numerical proportion, it nevertheless allows for a degree of flexibility in respect of anticipated forward supply. In the eventuality that slippage exceeds 10% over the plan period, subject to **MM70**, which introduces a robust monitoring framework to the Plan in place of Appendix 15, that would be monitored (notably via indicator or 'code' HD6).

## Allowances

402. The Plan anticipates delivery of 150 dwellings from new build 'windfalls' within the five-year period, 2023/4 to 2027/8, at 30dpa, and 100dpa from 'net conversions and changes of use'. Both are forms of 'allowance' in the Plan's terminology. The remaining form of 'allowance' defined in the Plan is the 'return to use of empty homes' addressed subsequently.

403. It is incidental whether other sources of supply, notably from ODAs, might also be described as 'windfall'. 'Windfall sites' are defined in the Glossary at Annex 2 to the Framework as 'Sites not specifically identified in the development plan'. With reference to Framework paragraph 68.b) 'broad locations', as distinct from

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<sup>68</sup> The reference to 'national planning policy' in place of 'Framework paragraph 141' in **MM1** reflects that there are multiple iterations of the Framework as above and is unrelated to soundness.

'specific, developable sites', are expected for years 6-10 and, where possible, for years 11-15 of plans.

404. Although we are content that the annual figures in respect of new build windfalls and net conversions and changes of use of 30dpa and 100dpa respectively are justified, no account should be taken of those in years 1 to 3 of the Plan (i.e. monitoring years 2023/24, 2024/25 and 2025/26). That approach avoids any double counting taking account of the statutory duration of planning permissions in terms of anticipated sources of supply, particularly commitments. In that context, and so that the Plan is justified in this respect, we recommend **MM3** which amends Plan table 3.2 to set out anticipated sources of housing supply over the Plan period.

## Windfalls

405. Framework paragraph 71 sets out that 'Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends'. It was put to us that we are now entering a period of greater economic uncertainty than previously, and that Wirral has not had an up-to-date development plan for many years, which may have artificially increased supply from 'windfalls'.

406. We return to any implications of as to whether there is now greater economic uncertainty. Nevertheless, on account of the measures recently taken by the Council putting renewed effort into regeneration and securing funding, as reflected in tentative signs of increased market confidence and rising land values, we are not of the view that 'expected future trends' in that respect warrant a significant reduction relative to historic levels of delivery from windfalls. Moreover, in respect of economic growth we have set out that there is a legacy of significant surplus land within Wirral, including that 264.39ha of 'undeveloped employment land across 116 sites' was found to exist as recently as 2011.

407. The Council's definition of windfalls is narrow, i.e. 'new-build sites where a planning application has been submitted and determined within the monitoring year, on a site that had not previously been identified in a Strategic Housing Land Availability Assessment, or which had not previously been granted a planning permission for residential development'. That is a fine-grain approach. The Council also note that all the residential allocations in the UDP have either been built out, are no longer available for development, or in the case of RES-RA3.4, are allocated in this Plan.

408. Against this context the Council's Housing Delivery Strategy sets out that in 2022 the annual averages of windfall delivery 'for the last five and ten years were 58 and 49 dwellings respectively'. The Plan as submitted, however, contains 66 residential allocations. That will inherently diminish the scope for windfalls in the future to an extent, and therefore a cautious approach to projecting forward either windfall allowances of 58 or 49dpa should rationally be taken. In our view an allowance of 30dpa from windfall provision is therefore appropriate, just over 60% of the 10-year average as above. So that the Plan is effective in that respect, **MM3** and **MM5** are necessary, respectively amending Plan footnote 38 and policy WS1.1 in that regard.

### **Net conversions/ changes of use**

409. We accept that there is something of a blurred line in terms of where conversions end and demolition and rebuild begins. We acknowledge that permitted development rights first enabling the conversion of offices to residential came into force on 30 May 2013, over a decade ago. We note that conversions and changes of use have only exceeded 100 annually, the forward supply envisaged by the Plan, in a handful of years between 2008/9 and 2020/21 [H7, table 2.5].

410. That said, average delivery of housing by virtue of net conversions/ changes of use is recorded by the Council as 109dpa over the period 2011-2021. Likely reflecting the history of development in Wirral and a surplus of employment land, delivery from changes of use have also exceeded 100dpa in monitoring years before the introduction of permitted development rights on 30 May 2013 (in 2012/13 and in 2008/9).

411. If anything, delivery of housing by virtue of conversions and change of use has accelerated more recently, net gains in this respect over the last five years are recorded in the Housing Delivery Strategy of 2022 as an average of 127dpa. Moreover, not all conversions or changes of use appear to have been as a result of exercising permitted development rights in any event; many have involved the provision of affordable housing. As such, in our view, the inclusion of 100dpa for conversions and changes of use is proportionate and justified.

### **Return to use of vacant homes**

412. The Council has a strong record of bringing empty homes back into use. As submitted the Plan was premised on the return to use of empty homes remaining a significant component of forward supply. That was on the basis of 100dpa initially, reducing to 90dpa or 80dpa subsequently. Framework paragraph 120.d) and associated footnote 48 are supportive of bringing empty

homes back into use, albeit that the PPG cautions that double counting in that respect should be avoided.<sup>69</sup>

413. Empty homes are referenced in the Council's Monitoring Report for 2021/22. That sets out that '209 vacant properties were brought back into residential use during 2021/22, of which 176 had been vacant for more than two years. The five-year average for properties that had been returned to use after being vacant for more than two years was 134 per annum (671 properties)'.
414. The Council do not, however, appear to have counted return to use of empty housing in delivery figures. We were told at the hearings that, had they done so, the housing figures for monitoring years 2021/22 and 2022/23 would have been 818 and 873 as opposed to 631 and 707 [DSH19]. It therefore appears that the Plan seeks to take a different approach to monitoring delivery from this source of supply, or that the return to use of empty homes has been incorrectly accounted for in previous monitoring.
415. The Council's Empty Homes Report seeks to address the potential for future supply in terms of empty homes and the issue of 'double counting' [H3.1]. With reference to that report, the Council explained at examination how the data from their Empty Property Team is checked against the Council's other monitoring records to remove any duplicate addresses. That relates to cross-checking that no empty homes returned to use is classed as other forms of 'allowance' (namely new build windfalls and conversions/changes of use). As such we are satisfied that accounting for return to use of empty homes is a discrete matter, rather than blurring into other forms of 'allowance'.
416. Nevertheless, nothing before us addresses that properties will also fall into vacancy from time to time. Homes may become vacant for various reasons, for example where they are vacant for a while as part of normal market turnover, or when they are unoccupied for repairs to be undertaken. The lack of evidence in that respect is a significant shortcoming.
417. DCLG Live Table 615 shows historic change in vacant dwelling stock by local authority area between 2004 and 2024. That reinforces that the Council has successfully significantly reduced both total and long-term vacancy previously. That said, total property vacancy has been very limited since 2017. Long term vacancy appears to have been almost static since 2014.
418. The Council's position is that the total percentage of vacant properties in Wirral is higher than the national average, figures in respect of all vacant properties being brought to our attention of 2.97% in Wirral compared to 2.69% nationally. Even if those figures are accurate, the difference between them is minimal.

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<sup>69</sup> PPG Reference ID: 68-030-20190722.

Other indicators show that Wirral's overall housing vacancy rate is now lower than England and Wales and also that of the north-west [M8.04].

419. Moreover, in November 2004 there were 758 empty homes owned by the Council and 308 with registered providers, whereas in October 2022 there were none in Council ownership and only 194 owned by registered providers [M8.07]. In that context there is evidently now lesser leverage that the Council can bring to bear than previously. Consequently, given the above, even a linear continuation of recent trends would in our view be unrealistically optimistic.
420. Consequently, anticipating delivery from the return to use of empty homes is not justified. That should, for effectiveness, be remedied via **MM3** and **MM5** which would delete that source of supply as referenced in Plan footnote 38 and policy WS1.1. A consequential implication of that reasoning is that the most accurate figure, in our view, for net housing delivery in Wirral in 2022/23 is 707.

## Viability

421. Paragraph 3.66 of the Plan recognises that in Wirral 'viability is a challenge'. The evidence before us in respect of viability is extensive and detailed in that context. We note that any viability work, however, represents a snapshot in time rather than reflecting how circumstances may change during an examination or in the future. Framework paragraph 58 sets out that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It further indicates that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Viability assessments are expected to reflect the recommended approach in the PPG.
422. The PPG sets out that 'policy requirements should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability...'. Both the PPG and the Royal Institute of Chartered Surveyors' Professional Standard 'Assessing viability in planning under the National Planning Policy Framework 2019 (for England)' refer to proportionality and to the acceptability of typologies. The PPG also notes that 'Assessing the viability of plans does not require individual testing of every site or assurance that individual sites are viable'.<sup>70</sup> For brevity in subsequent reasoning we have summarised the findings of the body of evidence before us.
423. Following the Wirral Local Plan Economic Viability Study Baseline Update, which was produced in 2018, a Wirral Local Plan CIL & Viability Assessment Study was produced in 2022 [DV1], which splits Wirral into relative viability

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<sup>70</sup> Reference ID: 10-003-20180724.

zones VZ-1 to VZ-4. We were presented with evidence indicating that overall, the viability deficit per unit in Wirral may be between £49,890, as in the Council's 'pragmatic' scenario, £79,869 per unit in the Council's worst-case scenario, both relating to Vittoria Studios, within their Addendum to the Wirral Local Plan CIL & Viability Assessment Study, or alternatively as stark as £160,000 per unit [AD01].

424. Inflation has also recently risen significantly, with a knock-on effect in terms of build costs and there are additional costs associated with constructing taller buildings. Interest rates, however, plateaued around 2023 and have begun to decline. Interest rates were also comparable to now in 2007 and 2008 when housing delivery in Wirral was relatively high compared to historic trends. In the monitoring years 2006/7 and 2007/8, 506 and 564 net additional homes were delivered respectively in Wirral [DSH19].
425. Even if we have entered a period of economic uncertainty nationally, the Council's Addendum to the Wirral Local Plan CIL & Viability Assessment Study points to a marked recent increase in property prices in Wirral of 10.78% [WBC031, paragraph 6.47].
426. More fundamentally there is a tension in the viability evidence before us. That tension might fairly be characterised as the distinction between theory and practice. Despite what is acknowledged in the Council's Addendum to the Wirral Local Plan CIL & Viability Assessment Study to be a challenging viability landscape, housing delivery in Wirral has increased notably in recent years. Sites have also delivered or secured permission for high levels of density, as is the case in relation to allocations RES-SA3.1 and RES-RA6.6, both of which are in the lowest viability zone, VZ-1. We heard during hearings that delivery has been achieved in Wirral with far less public subsidy than on-paper exercises suggest may be necessary.
427. There is, moreover, much debate in respect of viability as a concept, including that slightly different assumptions may lead to very different outcomes. At its core, return on investment is risk-based and only realised in the future, notwithstanding standard approaches to viability assessments or residual valuations. Some may, as is evidently the case in Wirral, take on the risk of developing here in the prospect of development returns over time (and the likelihood of their increasing).
428. Different developers and development models will have different risk profiles and acceptable rates of return, those involved in regeneration schemes may accept lower returns than volume housebuilders. In our view it is not therefore unreasonable to look at on-paper viability exercises with a degree of optimism.

429. There is also some force in the argument that the planning concept of viability fits better with locations where land values are higher, where planning may make the difference between viability or not. With that in mind, the PPG sets out how it should be used to ensure that policies are realistic and 'that the total cumulative cost of all relevant policies will not undermine deliverability of the plan'. Similarly, paragraph 3.7.11 of the Professional Standard referenced above sets out that the Financial Viability Assessments should 'demonstrate whether emerging plan policy requirements would make the plan undeliverable'.
430. A plan provides a framework and clarity for decision-taking. That has been lacking here for many years. It is often also an important component of securing funding for projects in the first instance, the Council indicating at examination that the existence of the Draft Birkenhead Regeneration Framework 2040 and work to date on the Plan has enabled funding and development that would otherwise not have arisen.
431. More fundamentally, to suggest that regeneration would be aided by development elsewhere is not an argument supported by policy. Although development elsewhere in Wirral, including in the Green Belt, is more viable, there is nothing to substantiate that it would be complementary to regeneration (as opposed to detracting from it). One of the purposes of the Green Belt as reflected in the Framework is to assist in urban regeneration by encouraging the recycling of derelict and other urban land.
432. Moreover, various MMs will improve viability prospects in Wirral. Subject to **MM16** and **MM56** there would be a less stringent approach to zero carbon ready design consistent with the WMS of 13 December 2023. There would be clarity as to what forms of infrastructure need necessarily be funded by development by virtue of **MM5**, **MM18** and **MM67**. The 20% Biodiversity Net Gain requirement on Council-owned land would be deleted via **MM13**.
433. There would also be flexibility in the application of the Plan's approach to securing social value and nationally described space standards by virtue of **MM53** and **MM56** (for reasons set out subsequently under issue 8). Taking account of viability, amongst other factors, we have also reached the view in respect of several sites that density expectations should be moderated relative to the Council's position in the Plan as submitted (RES-RA3.4, RES-RA4.1, RES-RA4.2, RES-RA4.3 and RES-RA5.1). Each requirement the Plan places on development is rational and justifiable.
434. We accept the MMs would not address the totality of the viability gap which may exist. Consequently, in addition to the MMs above, and for consistency with Framework paragraph 58, the Plan should also make express provision for flexibility in terms of addressing viability in decision-taking. That would be

achieved via **MM9** which introduces a new policy in this respect and is necessary for consistency with national policy.

435. **MM9** would enable a balanced view to be taken, where development is demonstrated not to be viable, as to whether the benefits of the development would outweigh any harm arising to it not fulfilling policy requirements (including provision for review and clawback in the eventuality viability were to change over time). Recognising the particular interaction between viability and affordable housing provision we also recommend **MM10** for consistency with Framework paragraph 62 in respect of providing housing needed for different groups in the community. **MM10** would amend Plan policy WS3.3 to accord in-principle support to provision of affordable housing in excess of 10% or 20% thresholds.
436. We have further noted above that the Framework supports regeneration, which will inevitably encompass low land value areas. In that context the PPG sets out that 'viability assessment should not compromise sustainable development'. Viability is therefore one angle to multiple perspectives in relation to the concept of sustainable development. Consequently, subject to the MMs above, and whilst viability is likely to remain challenging in Wirral, we conclude that there is a reasonable prospect of the Plan achieving its objectives. Therefore, the Plan charts an appropriate course.

## Stepped trajectory

437. What is presently deliverable or developable based on the evidence before us amounts to 11,814 homes instead of the minimum 14,400 requirement. In respect of employment provision, it is that allocations would effectively amount to the Council's position of a total supply of 59.16ha, exceeding the 49.0ha requirement. This should be reflected via **MM11** and **MM66**, and the distinction between evidenced-based supply relative to requirements clarified via **MM3** and **MM6**, such that the strategy is based on proportionate evidence, consistent with Framework paragraph 35.c).
438. Framework paragraph 68.b) envisages that there may be scenarios where it is legitimately not possible to identify broad locations for growth for years 11-15 of a plan. An annual housing figure of 800 dwellings over 5 years would indicate something in the order of 4,000 dwellings in that respect. That only 11,814 dwellings are, in our view, presently demonstrably deliverable or developable is not critical to the Plan's overall soundness.
439. The Plan looks towards a significant change in the level of housing requirement relative to previous policies. A stepped trajectory is consistent with the premise upon which the Plan is founded, i.e. gaining momentum and improving development viability where previous plans have failed to achieve those

objectives. Many strategic sites will inevitably deliver in phases or later in the plan period. Those are examples given in the PPG of circumstances where a stepped housing requirement may be appropriate.<sup>71</sup>

440. In our view it would be logical for the Plan to incorporate a stepped trajectory starting at 500dpa for years 0 to 5 (2022/23 to 2027/28), rising to 850dpa for years 6 to 10 (2028/29 to 2032/33) and thereafter rising to 1,025 to meet the full requirement in the remainder of the plan period (years 11 to 17 being 2033/34 to 2039/40). That approach would, rather than unnecessarily delaying delivery, be consistent with the Plan's strategy to meeting needs over the plan period including from ODAs, and would be introduced via **MM5**, necessary for effectiveness.
441. The stepped trajectory would be supported by robust monitoring and review provisions, via **MM21** and **MM70** addressed subsequently, noting that the PPG sets out that 'In reviewing and revising policies, strategic policy-makers should ensure there is not continued delay in meeting identified development needs'.<sup>72</sup> **MM65** is also necessary for effectiveness, which shows the anticipated housing trajectory relative to the stepped target in place of Appendix 4 of the Plan as submitted.

## 5-year housing land supply ('5YHLS')

442. Provided the Plan is adopted swiftly on receipt of this report,<sup>73</sup> years 1 to 5 of the Plan over which the 5-year housing land supply requirement ('5YHLSR') would be calculated would be 2023/24 to 2027/28. Based on the stepped trajectory of 500dpa during years 1 to 5, and the Council seeking to demonstrate a 10% buffer in line with Framework paragraph 74.b), that would result in a 5YHLSR of 2,750 dwellings. Demonstrable delivery over years 1-5 amounts to 2,705 dwellings (including accounting for slippage).
443. The figure of 2,705 above is, however, setting aside any previous 'oversupply' that may legitimately be used to offset any future shortfall.<sup>74</sup> We have set out above that 707 dwellings were completed in 2022/23, such that 207 may legitimately be cast forward.
444. Based on all the evidence before us in the foregoing context, on adoption the Council will likely be able to demonstrate a forward supply of 2,912 dwellings or around 5.29 years supply. That would exceed the 5YHLSR of 2,705 by around 8%. Whilst 260 of that figure relates to windfalls and net conversions or changes of use, as above, figures in that respect are justified. Albeit that the 5YHLS was calculated with a base date of 1 April 2023, it is evident from the trajectory that the Council would be likely to demonstrate a 5YHLS on adoption.

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<sup>71</sup> PPG Reference ID: 68-021-20190722.

<sup>72</sup> PPG Reference ID: 68-021-20190722.

<sup>73</sup> PPG Reference ID: 68-004-20190722.

<sup>74</sup> Reference ID: 68-032-20190722.

## Conclusion

445. Subject to the MMs above the Plan's approach would be deliverable.

### **Issue 8: Are other policies related to managing development consistent with the Plan's aims and objectives and would they be effective in practice?**

446. Framework paragraph 16.d) sets out how plans should contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals. In that context the overall accessibility and accuracy of the Plan would be addressed via various MMs recommended earlier. For consistency with the Framework in that respect we recommend that a number of other policies, principally geared towards managing development in practice, be modified as set out below.

447. So that policy WD20 'Social value' is sufficiently flexible relative to the development proposed **MM53** is necessary for effectiveness. **MM53** would, in particular, introduce the phrase that social value should be sought 'in a manner proportionate to the nature of the development proposed'. It is therefore conceivable that the requirements under that policy for certain types of development may be very limited, for example those which change from one commercial use to another with no significant differential effect physically or in terms of job creation. As modified, policy WD20 would be reasonable and consistent with both the regeneration aims of the Plan and support for regeneration in the Framework.

448. To provide a clear basis for decision-taking, policy WD10 in respect of primarily residential areas should set out clearly that it sets a framework supportive of residential development, as would be achieved via **MM47**. For the same reason **MM52** is necessary in respect of policy WD19 'Temporary Buildings, Structures and Uses'.

449. In respect of providing suitable protection for open space **MM18** is necessary, which would amend Plan policy WS10.6 so that express reference to playing field land is made consistent with the purpose of the policy, as opposed to that policy solely referring to 'grass sports pitches and facilities'. The suggestion that replacement provision be completed in full prior to the commencement of development is a matter of detail that is not necessary to be specified in the policy for soundness (but can be agreed on a case-by-case basis depending on the circumstances).

450. Framework footnote 49 sets out how 'policies may also make use of the nationally described space standard, where the need for an internal space standard can be justified'. The Council's principal justification for applying

Nationally Described Space Standards via policy WS3.1 is that it is 'a basic requirement of any home'. Given the nature of the housing market in Wirral, viability challenges and regeneration of brownfield sites which likely result in pressure to create smaller units, the application of Nationally Described Space Standards is justified.

451. Nevertheless, that requirement should include some flexibility to allow for variance in the event that it is unfeasible given the particular nature of a scheme. In that context, and for consistency with the Framework as above, **MM56** is necessary. **MM56** amends policy WS3.1 in that respect to set out that that Nationally Described Space Standards should be met unless this is demonstrated to be unfeasible.
452. Requiring that one in 17 dwellings is constructed to wheelchair accessible standards, i.e. to Buildings Regulations M4(3)(2) within that policy is also justified. That proportion represents approximately 6%, mirroring the proportion of the population which the Council identify as differently abled. Relative to the version of **MM56** consulted upon, however, reflecting Approved Document M, Volume 1, paragraph 0.5, criterion C.2 of Plan policy WD23 should refer to wheelchair accessible dwellings in line with Building Regulations Part M4(3)(2)(b).
453. Similarly, to delete provision of electric vehicle charging points via policy WS9.3 in line with Appendix 8 of the Plan, and thereby to reflect that such provision is required under the Building Regulations in respect of electric vehicle charging points, **MM55** is necessary for consistency with national policy. Suitably reflecting groundwater source protection zones should be accounted for as would be achieved via **MM44** related to Plan policy WD4.3, in order to be consistent with Framework paragraph 16.d) and providing for a clear basis for addressing such considerations in decision-taking.
454. On 13 December 2023 the Government issued a WMS on 'Planning - Local Energy Efficiency Standards Update'.<sup>75</sup> That explained that 'the introduction of the 2021 Part L uplift to the Building Regulations set national minimum energy efficiency standards that are higher than those referenced in the 2015 WMS rendering it effectively moot'.<sup>76</sup> That WMS also explained how a further change to energy efficiency of buildings was planned for 2025 'meaning that homes built to that standard will be net zero ready...', and by consequence that the then Government did not expect plan-makers to set 'local energy efficiency standards for buildings that go beyond current or planned building regulations'. The 13 December 2023 WMS therefore forms part of extant national policy at examination, and consistency with it would be achieved via

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<sup>75</sup> Official record HCWS123.

<sup>76</sup> The 2015 WMS being official record HC Deb, 25 March 2015, vol 584, cols 131-138WS.

**MM16** and **MM56** which respectively amend Plan policies WS8, WS8.2 and associated text related to zero carbon ready by design requirements.

455. For consistency with Framework paragraph 187 in relation to the agent of change principle **MM50** and **MM54** are necessary. In Plan policy WD16.2 the origin of the phrase that 'only proposals that would not expose significant numbers of people to unacceptable levels of risk' is not one that derives from policy, and furthermore risks setting an arbitrarily low threshold in that regard. As such that should be deleted, via **MM50**. Relative to the version of **MM50** consulted upon, however, the deletion should not encompass the requirement that development 'should not require the modification of revocation of an existing Hazardous substances consent', consistent with the agent of change principle in Framework paragraph 187.
456. The implications of safeguarding in respect of Liverpool Airport, Hawarden Airport and the Wallasey Doppler Very High Frequency Omni Directional Navigation Beacon would be addressed principally via relevant changes to the policies map. The name of Plan policy WD17 should, however, be amended to reflect its remit via **MM51**. **MM51** is also necessary for consistency with the Town and Country Planning (safeguarded aerodromes, technical sites and military explosives storage areas) Direction 2002.
457. Whilst Plan policy WD13 sets a broadly appropriate basis for determining telecommunications proposals, including with reference to relevant permitted development rights, there is no policy requirement for such development to 'achieve the best environmental solution'. As such, and for consistency with Framework paragraph 115, **MM49** is necessary.
458. Appendix 1 to the Plan sought to define what a 'severe transport impact' would be in Wirral, for example 'delays at downstream junctions'. That is inevitably, however, a qualitative judgement as is recognised in Framework paragraph 111 which sets out that 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'. For consistency with Framework paragraph 111 it is necessary to delete these definitions at Appendix 1 to the Plan via **MM64**.

## Conclusion

459. Subject to the MMs above, other Plan policies related to managing development would be consistent with the Plan's aims and objectives and would be effective in practice.

## **Issue 9: Is there a sound and effective basis for monitoring and reviewing the Plan?**

460. Notwithstanding the statutory requirement to review plans every 5 years, review and monitoring provisions introduced via **MM21** and **MM70** set an appropriate approach to ensure effectiveness and are necessary so that the Plan is positively prepared and effective, amending Plan policy WS12 and supporting text and Appendix 15 to the Plan. In particular those MMs introduce precise indicators of progress absent in the Plan, noting the particular importance of indicators or codes HM1, E1 and HD6 as referenced earlier in this report, as well as referring to broader evidence that may contribute to an understanding of whether the Plan's approach is being realised in practice.
461. **MM21** additionally sets out how policies are 'likely to require earlier review if local housing need is expected to change significantly in the near future', in recognition of planning policy change and progress in respect of plan-making in the Liverpool City Region. In that context it is therefore unnecessary to require an immediate review given the provisions of the 2024 Framework.

## **Conclusion**

462. Subject to the MMs above, the Plan would contain a sound and effective basis for monitoring and review.

## **Overall Conclusion and Recommendation**

463. As submitted, and as set out above, the Plan has a number of deficiencies in respect of soundness. We therefore recommend non-adoption of it as submitted (in accordance with section 20(7A) of the 2004 Act). The Council has, however, requested that we recommend MMs to make the Plan sound and legally compliant and thereby capable of adoption. We conclude that the duty to co-operate has been met and that with the recommended main modifications set out in the Appendix, the Wirral Local Plan satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

*Mike Worden, Tom Bristow*

INSPECTORS

## **Schedule of Main Modifications**

This report is accompanied by an Appendix containing the Main Modifications.