

INDEPENDENT EXAMINATION OF THE HALTON-WITH-AUGHTON NEIGHBOURHOOD DEVELOPMENT PLAN

INDEPENDENT EXAMINER:
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To Lancaster City Council and Halton-with-Aughton Parish Council

By email to Fiona Clark, Planning Officer (Homes and Communities), Lancaster City Council, and Luke Mills, Clerk, Halton-with-Aughton Parish Council.

Dated 11 July 2025

Dear Fiona and Luke

Halton-with-Aughton Neighbourhood Development Plan Independent Examination - Examiner letter seeking clarification of a matter

Further to my initial letter of 23 June 2025 I am writing to seek clarification of a matter as part of my consideration whether the Neighbourhood Plan meets the "Basic Conditions"

The draft Neighbourhood Plan contains 11 policies. I am satisfied 10 of those policies will meet the Basic Conditions, in some cases following minor modification that I intend to recommend.

I have identified flaws in Policy HA-5 Flooding which prevents the Neighbourhood Plan proceeding to referendum unless that policy, in its present form, is deleted from the Plan. In seeking to avoid that outcome I have drafted a part of my report that proposes major modification of Policy HA-5 so that I would be able to recommend it remains part of the Neighbourhood Plan.

I set out below my draft report recommending modification of Policy HA-5 as an alternative to deletion of the policy, and invite comment from the City Council and the Parish Council. I request any response to this matter is agreed as a joint response of the Parish Council and the City Council wherever possible. This request for clarification of a matter and any response should be published on the City Council website.

To maintain the momentum of the Independent Examination I would be grateful if a reply could be sent to me by Noon on Friday 25 July 2025.

I would be grateful if the City Council and the Parish Council could acknowledge receipt of this email.

Best regards

Chris Collison
Independent Examiner
Planning and Management Ltd

Policy HA-5 Flooding

1. This policy seeks to establish that all development should be designed to minimise flood risk and take opportunities to reduce flood risk. The policy also seeks, within a defined part of the Neighbourhood Area, to establish flood risk related principles for development including the safeguarding of identified sites for potential flood mitigation schemes, and expects development proposals located in areas that would benefit from defined flood management schemes to take opportunities to support the delivery of those schemes.
2. The City Council states “Policy ‘HA-5 Flooding’ seeks to safeguard land for potential future flood mitigation opportunities in accordance with paragraph 172b of the NPPF and in conformity with strategic policies ‘CC1: Responding to Climate Change and Creating Environmental Sustainability’ and ‘SP8: Protecting the Natural Environment’ of the SPLADPD. The Jacobs Flood Risk Management Study 2020 provides robust evidence and justification to support the areas proposed for safeguarding. The policy fails to include a plan of the proposed areas therefore requires consultation of additional documents to determine the areas to be protected. This results in a policy that is not clear or easy to navigate. Previous versions of the Plan included maps, while these were of poor quality, they did at least show the general location of the area. It is recommended that for ease of use, good quality clear maps showing the areas are included within the Plan. The wording of the policy has been amended since the Reg14 Plan to address some of the issues raised by the Local Lead Flood Authority. The resulting wording creates a policy which is not wholly clear on what the requirements are. For example, ‘design flood is referred to’ but the definition is not clarified. The policy includes reference to ‘may’ in various places, this raised questions over what is expected of a development for it to meet the policy requirements. The aim of the policy to ensure that development mitigates and takes opportunities to reduce flood risk is supported. In particular, the policy aims to generate delivery and/or contributions to the delivery of schemes within the Jacobs Flood Risk Management Study. The wording does not make clear what the expectations are for development management purposes or that such contributions would need to meet the tests in paragraph 58 of the NPPF. The policy would benefit from some clearer wording to ensure that it provides a clear basis for development management purposes.”
3. United Utilities states “We wish to suggest that criterion 2 is expanded to clearly state that it relates to all sources of flood risk as per the following amendment. ‘2. Avoid areas at risk of flooding from all sources in the design flood event.’ With respect to criterion 6, we wish to highlight that any approach to surface water management must fully reflect the surface water hierarchy in national planning practice guidance which states that the public combined sewer, which carries both foul and surface water, is the last resort for the management of surface water. As such, connection to a surface water only system is preferable to a combined drainage. This position must be reflected in the decision-making process when determining drainage approaches. Whilst we are supportive of the intentions of criterion 6, we must explain that in the event that an alternative to the public sewer for the management of surface water is not available, UUW must accept a connection of surface water to the sewer network in accordance

with our statutory obligations and the hierarchy for the management of surface water in national planning practice guidance.”

4. The representation on behalf of Applethwaite Homes states they are progressing a planning application seeking outline planning permission for up to 80 dwellings on land south of Low Road, Halton. It is stated a site-specific Flood Risk assessment and drainage strategy accompanies the application confirming the site is located entirely within Flood Zone 1, and as a result of the drainage strategy the site does not increase flooding within or downstream of the catchment including an allowance for climate change. The representation states “the Neighbourhood Plan does not appear to have had regard to a current planning application, nor the wider evidential issues explored in the application. In particular, the Neighbourhood Plan’s Policy HA-5 takes an approach to flood mitigation and reducing flood risk which is not in line with national policy and does not have a robust evidence base. The Policy should therefore be deleted.”
5. In commenting on the Regulation 16 representations the Parish Council stated that whilst the Lead Local Flood Authority had commented “at each stage” unfortunately they did not provide a Regulation 16 representation. The Parish Council sent me a copy of the Regulation 14 representation of Lancashire County Council as Lead Local Flood Authority dated 22 August 2024. I have taken the comments of the Parish Council, including the enclosure, into consideration in this Independent Examination but may not have referred to all those comments and enclosed submission in my report.
6. In February 2018, Lancashire County Council commissioned Jacobs UK to undertake an initial assessment of flood risk management covering Halton. The report was published in February 2020 which has subsequently been used as part of the evidence base supporting the Neighbourhood Plan. The report states Halton has experienced five flood events since 2002, with the two most recent events in December 2015 and November 2017. The report states the main mechanism of flooding in 2015 is likely to have been from out of bank flow from the River Lune, whereas a combination of pluvial, surface-water and fluvial flooding mechanisms were responsible for the 2017 event.
7. Paragraph 165 of the Framework states “Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.” Paragraphs 167 to 172 set out a sequential risk-based approach to the location of development and an exception test. Paragraph 173 of the Framework states when determining any planning applications local planning authorities should ensure that flood risk is not increased elsewhere, and refers to site-specific flood risk assessments and criteria to be met for development to be allowed in in areas at risk of flooding. Paragraph 175 of the Framework states major developments should incorporate defined sustainable drainage systems unless clear evidence demonstrates they would be inappropriate.
8. I have identified flaws in Policy HA-5 Flooding which prevents the Neighbourhood Plan proceeding to referendum unless that policy, in its present form, is deleted

from the Plan. In seeking to avoid that outcome I have recommended major modification of Policy HA-5 so that I would be able to recommend it remains part of the Neighbourhood Plan.

9. I agree with the City Council that the policy would benefit from clearer wording. I have recommended a modification so it is evident how a decision maker should react to development proposals. The first paragraph of Policy HA-5 and bullet point 1 include the imprecise terms “minimise” and “take opportunities to reduce flood risk”. The term “will be expected to” in the second paragraph of the policy does not provide a basis for the determination of development proposals. The term “design flood event” in bullet point 2 is imprecise. Bullet point 4 includes the terms “including” and “for example” that introduce uncertainty. The requirement for development to “recognise” in bullet point 5 does not provide a basis for the determination of development proposals. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
10. The reference to safeguarding land from development that is required, or likely to be required, for current or future flood management in paragraph 167b of the Framework is in the context of management of residual risk after applying a sequential risk-based approach to the location of development. The Neighbourhood Plan does not make provision for development and has not applied a sequential risk-based approach to the location of development. I am not satisfied bullet points 3 and 4 of the second paragraph of Policy HA-5 are sufficiently justified to form part of the Development Plan. The Flood Risk Management Study 2020 is an initial assessment only. The aim of the assessment is to establish whether a workable, sustainable, and justified solution to reduce the risk of flooding can probably be found, or whether the project should take a different course or be stopped. An objective is to provide a starting point for discussion with communities and partner organisations for use in the development of potential schemes and negotiations regarding funding contributions. The study recognises it is based on several uncertainties and assumptions that need to be addressed, and in respect of which no public consultation, including with landowners and developers, has been undertaken. The study states the options considered are not comprehensive, and that even for options taken forward, further testing and refinement are required. The areas of land to be safeguarded by Policy HA-5 are referred to in the supporting document as “indicative locations.” The areas of land proposed to be safeguarded are not sufficiently precisely defined in supporting evidence to form part of the Development Plan. The safeguarding of the parcels of land is stated in Policy HA-5 to “ensure they are available for future potential flood mitigation schemes.” The Flood Risk Management Study states such schemes could be formal storage areas or SuDS and that lack of landowner support will likely be a major obstacle to progressing all the Do-Something options. Policy HA-5 is seeking to prevent development of land through safeguarding, to reduce pre-existing flood risk elsewhere. This planning obligation does not have sufficient regard for paragraph 57 of the Framework. I have recommended bullet points 3

and 4 are deleted for these reasons so that the policy has sufficient regards for national policy.

11. Whilst I am satisfied Map 14 of the Neighbourhood Plan adequately explains the term overloaded, bullet point 6 does not have sufficient regard for paragraph 16f of the Framework in that it duplicates elements of non-strategic Policies DM33 (Development and Flood Risk) and DM34 (Surface Water Run-off and Sustainable Drainage) which set out the sustainable drainage hierarchy. The Written Ministerial Statement of 25 March 2015 states neighbourhood plans should not set out any additional local technical standards or requirements relating to the construction, internal layout, or performance of new dwellings. The representation of United Utilities states that if an alternative to the public sewer for the management of surface water is not available “UW must accept a connection of surface water to the sewer network in accordance with our statutory obligations and the hierarchy for the management of surface water in national planning practice guidance.” Bullet point 6 does not reflect statutory obligations. I have recommended a modification in these respects so that the policy has sufficient regard for national policy and “is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” as required by paragraph 16d) of the Framework.
12. I have noted the representation on behalf of Applethwaite Homes refers to the requirement of paragraph 31 of the Framework for policies to be underpinned by up-to-date evidence and the suggestion that a drainage basin constructed on land off Forest Heights may have not been factored into the Flood Risk Management Study 2020. I have not explored this matter as it would not affect the basis of my recommendations of modification of Policy HA-5 set out above.
13. As recommended to be modified the policy is in general conformity with the strategic policies of the Development Plan. The policy serves a clear purpose by providing an additional level of detail or distinct local approach to that set out in the strategic policies.
14. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the Framework and Guidance, the policy as recommended to be modified, is appropriate to be included in a ‘made’ neighbourhood plan. Subject to the recommended modification this policy meets the Basic Conditions.

Recommended modification:

Replace Policy HA-5 with “All development proposals must not increase flood risk elsewhere. Additionally given the evidence of flood risk in Halton village, development proposals in the area identified in Map 12 - Halton Study Area of the Neighbourhood Plan must:

- **Avoid areas at risk of flooding from all sources;**
- **Include sustainable drainage systems. Natural flood management measures and design elements including permeable drive surfaces or green and blue roofs will be supported;**
- **Demonstrate the development will not result in any on-surface water flows off the development site;**

- **Wherever possible discharge surface water to a surface water only system, and not discharge any flows into existing overloaded surface water drains and culverts identified on Map 14 of the Neighbourhood Plan. Development proposals that dispose of surface water through infiltration into the ground, or discharge directly through new drains into a watercourse with demonstrated sufficient capacity will be supported; and**
- **Demonstrate how consideration has been given to climate change.”**