

FYLDE LOCAL PLAN EXAMINATION

RESPONSE BY WYRE BOROUGH COUNCIL TO THE INSPECTOR'S MATTERS, ISSUES AND QUESTIONS

COMPLIANCE WITH STATUTORY PROCEDURES AND LEGAL MATTERS

Issue 1 - Has the Council met the statutory duty to cooperate as set out under Sections 20(5)c and 33A of the Planning and Compulsory Purchase Act 2004?

No, Fylde Council has not met the statutory duty to cooperate as set out in legislation.

1. What are the relevant strategic matters in relation to this duty?

- 1.1 The relevant strategic matter in relation to this duty is the delivery of the Objectively Assessed Need (OAN) for housing within the Fylde Coast Housing Market Area. NPPF paragraph 47 indicates the full OAN should be met in the HMA subject to consistency with other policies in the NPPF.
- 1.2 The Fylde Coast Housing Market Area (FC HMA) includes the administrative areas of the Boroughs of Fylde and Wyre and of the Unitary Authority of Blackpool. Each local authority within the FC HMA has set its OAN figure independently albeit on the basis of the joint FC Strategic Housing Market Assessment (SHMA). Wyre is unable to meet its housing OAN because of primarily, highway constraints. Wyre has been working with Lancashire County Council and Highways England since January 2015 to establish the capacity on the local and strategic highway network to support development with deliverable mitigation. Both main routes through the Borough – the A6 in the east of the Borough and the A585(T) linking the urban peninsular to the M55 are at capacity. There are also issues relating to the A588 and the internal local highway network at Poulton-le-Fylde and Thornton.
- 1.3 Consequently Wyre will not be able to meet in full its identified OAN of 9,580 dwellings between 2011 and 2031.
- 1.4 The National Planning Policy Framework, (NPPF) at paragraph 156 defines strategic priorities which includes the delivery of homes and jobs needed in the area. The NPPF then at paragraph 178 stipulates that local authorities have a duty to cooperate on matters relating to the strategic priorities set out in paragraph 156. NPPF also in paragraph 182 states that for a Local Plan to be 'Positively Prepared' it should seek to meet the objectively assessed development and infrastructure requirements including unmet requirements from neighbouring authorities where reasonable to do so and consistent with achieving sustainable development (my emphasis). The importance and immediacy of delivering necessary housing is reiterated in the recently published White Paper - Fixing our broken housing market.

- 1.5 The Fylde Coast Authorities¹, (FCA) have agreed² a Memorandum of Understanding, (MoU) with regards to the Duty to Co-operate (Appendix 1). The MoU recognises the Fylde Coast as a Housing Market Area, (HMA) which led to commissioning a joint Fylde Coast Strategic Housing Market Assessment, (SHMA). Under the MoU the FCA agreed to work together 'to reach a consensus on housing provision across the Fylde Coast sub-region'.
- 2 *Has the Council maximised the effectiveness of plan-making activities by engaging constructively, actively and on an on-going basis with the prescribed bodies, in the preparation of the Plan in the context of these relevant strategic matters?*
- 2.1 No, Fylde has not maximised the effectiveness of plan making engaging constructively, actively and on an on-going basis with Wyre in relation to the shortfall in housing provision in Wyre and consequently in the HMA.
- 2.2 As early as March 2015, Wyre alerted Blackpool and Fylde of significant constraints and the possibility that Wyre will need assistance in meeting its needs.³ The issue was reiterated at a meeting with Fylde in May 2015.⁴ The minutes of meetings, (Appendix 2) show that Fylde was aware that Wyre will not be able to meet its OAN before the revised Preferred Options was published in October 2015.
- 2.3 Fylde in its response to the Wyre's representation on the Publication version of the Local Plan, states that Wyre's position has changed from one of support for the Plan at preferred option stage to one of objection and one of concern to restrict development near the boundary to one requesting an unspecified quantum of development.
- 2.4 Wyre's response to the revised Preferred Option is reproduced in Appendix 3. Wyre was in general support of the strategy and should have covered the issue of unmet need in the representation on the preferred option. Nonetheless Fylde was aware of the issue which was discussed again shortly after sending Wyre's response on the 30 November 2015, at the duty to co-operate meeting on the 7 December 2015.⁵
- 2.5 At the meeting on the 7 December 2015, Fylde requested that an officer from Fylde attend Wyre's meeting with LCC and Highways England on 8 December 2015 to discuss highway matters in Wyre. A senior planning officer from Fylde attended the meeting on the 8 December.⁶ At the latest, as of December 2015, Fylde were aware of the significant highway constraints and the inability of Wyre to meet its OAN.

¹ Blackpool Council, Lancashire County Council Fylde Council and Wyre Council.

² Each Council has taken the Memorandum of Understanding through their respective decision making structures.

³ Fylde Coast Joint Member and Officer Advisory Steering Group Meeting 30 March 2015

⁴ Fylde and Wyre Duty to Cooperate meeting 8 May 2015.

⁵ FC Officers Meeting 7 December 2015.

⁶ Fylde also attended meetings on the 6 and 19 of May 2016.

- 2.6 It would appear that in developing their final Local Plan, Fylde ignored the issue of a shortfall in Wyre. Wyre's inability to accommodate its OAN, was debated in detail next at a FC duty to co-operate officers meeting in April 2016⁷. At the meeting it was agreed that Wyre should formally write to Blackpool and Fylde and request assistance in meeting the OAN. Wyre wrote to Fylde on the 4 May 2016 (Appendix 4). Fylde responded on 18 May 2016, referring to the objection by Highways England and issues raised by Natural England which may inhibit Fylde from assisting Wyre in meeting its OAN (Appendix 5). To date Fylde has not shared any evidence with Wyre to show that Fylde cannot assist Wyre. There is no evidence that Fylde has given any consideration to the matter as required to do before proceeding to publish their Local Plan. Fylde also queried Wyre's OAN figure in their letter of 18 May 2016, but did not request any specific evidence. Wyre responded by letter on the 24 May 2016 (Appendix 6).
- 2.7 LCC submitted their draft Highway Report to Wyre in May 2016 and it was circulated to Fylde and Blackpool for the Officers and Members meeting on the 22 June 2016 (Appendix 7)⁸. At the meeting Wyre's situation was again discussed in detail, and Wyre has indicated that Blackpool and Fylde need to provide evidence why they cannot assist. No comments were received from Fylde on the May draft Highways report.
- 2.8 The May draft Highways Report was not formally published because Wyre had outstanding queries with LCC. The substance of the evidence showing the constraints in different parts of the network remains.
- 2.9 Although officers from the three Fylde Coast Authorities have been meeting under the Memorandum of Understanding, these have not been effective to resolve the issue. Hence Wyre raised the issue of lack of co-operation from Fylde in their response to the Publication Local Plan in August 2016. The representation was followed by an e mail from Wyre's Chief Executive to Fylde's Chief Executive indicating that the response to the publication draft was sent early to give the opportunity to resolve matters. However Fylde's Chief Executive's response was that Wyre will have the opportunity at the oral hearing to articulate the concerns expressed in the representation. Wyre's Chief Executive responded back to say that he would prefer not to have to debate matters at the examination and that Wyre's preference was to resolve matters. (See Appendix 8). There was no further engagement from Fylde on this matter until the letter dated 23 of January 2017 and received by Wyre on 1 February 2017.
- 2.10 The Fylde letter received on the 1 February 2017 makes reference to the Duty to co-operate Officers meeting on 14 November and implying that this was the first time that Fylde was made aware of the issue and clarifying what information it requires from Wyre in order to consider the request. The letter and Wyre's response is reproduced in Appendix 9 and 10.

⁷ FC Officers meeting 5 April 2016

⁸ Duty to Co-operate Members and Officer Meeting 22 June 2016

- 2.11 It is evident from the above that Fylde did not engage with Wyre constructively, actively and on an on-going basis in the preparation of Fylde Local Plan. As part of the Fylde Local Plan process, Fylde did not engage with Wyre on how Fylde can assist in meeting housing needs within the joint Housing Market Area. Fylde has not approached Wyre with any request for information before the letter dated 23 January 2017 and did not comment on the draft Highways Report circulated to them for the meeting on the 22 June 2016. Fylde had opportunity to consider the issue before and after the publication of the preferred options in October 2015 and before publication of the Local Plan. There was the opportunity to discuss the matters raised in Wyre's representation at the Duty to Co-operate meeting on 14 November 2016 before submission of the Local Plan in December 2016.
- 2.12 Whilst Wyre understands the importance of getting local plans adopted as quickly as possible, such plans must be positively prepared and effective and importantly deal with matters such as housing provision within the HMA.
- 2.13 Fylde has indicated that it could not have considered the matter because the final shortfall it is not known and also whether and to what extent other local authorities can assist is also not known. These are not credible reasons justifying failure to comply with national policy and also the agreed MoU. It was evident by the exchange of emails between the two Chief Executives that Fylde has no intention to discussing this matter with Wyre.
- 2.14 The letter dated 23 January 2017 is not drafted within the spirit of co-operation but it is an attempt to justify Fylde's failure to comply with the duty to co-operate and national policy. The letter which does not provide a response to the request for assistance or any information or material for debate but it is a 'list of demands', in order for Fylde to consider the issue, comes five months after the Representation on the publication Local Plan was sent, nearly nine months since the formal request was made and nearly two years since Fylde was first alerted to the possible issue of unmet need within the HMA.
- 3 *In light of Wyre Borough Council's statement that they will be unable to meet their own objectively assessed housing need (OAN):*
- a. *What has been the nature of any cooperation in this regard?*
- 3.1 Paragraphs 2.1 – 2.14 above explain the nature of the co-operation. Despite the agreed MoU cooperation from Fylde has been ineffective in considering the matter raised by Wyre.
- b. *Has cooperation led to an agreed mechanism for the delivery of unmet housing needs within the HMA?*
- 3.2 The cooperation has not led to an agreed mechanism for the delivery of unmet housing needs within the HMA. Fylde has not attended meetings with information on how they have considered the matter and whether they can assist.

c. *In what way has this influenced the Plan?*

- 3.3 It would appear that any discussion about the unmet need within the HMA has not had any influence in finalising the Plan. There appears to be no evidence that Fylde has considered the matter. Fylde has not shared any information with Wyre to that effect. The Fylde Local Plan does not provide any flexibility to indicate where and how much of the unmet need within the HMA can be accommodated within Fylde. The fact that Fylde in the letter dated 23 January 2017 asks Wyre how much of the OAN is looking to be accommodated in Fylde indicates lack of consideration and understanding of Fylde's obligations under the duty to co-operate.
- 3.4 In the same letter, Fylde states that in order that progress of the Fylde Local Plan is not compromised, any decision to provide homes to assist Wyre will therefore have to through a later version of the Plan, or an early review. The Local Plan however makes no provision in that respect.
- 3.5 It is asserted also in the same letter that to assist Wyre now it would require a new development strategy. The Development Strategy is expressed in the Settlement Hierarchy (Policy S1) and the Strategic locations for Development (Policy DLF1). Neither Policy sets limits on the level of growth in each settlement within each tier of the hierarchy or at each of the four strategic locations. As a matter of principle there is no evident reason why more development to assist Wyre could not be accommodated without affecting the Fylde Local Plan Development Strategy. There is also no evident justification how the development percentage in relation to different settlement categories has been arrived at in Table 2.

d. *Is there an obligation for Fylde Council to ensure that the objectively assessed need for the HMA as a whole is met?*

- 3.6 No, Fylde Council does not have an obligation to ensure by itself that the objectively assessed need for the HMAS as a whole.
- 3.7 However, NPPF paragraph 47 first bullet point makes reference to the HMA not the local authority area. Therefore Fylde has collective responsibility together with Wyre and Blackpool to ensure that the OAN for the joint HMA as a whole is met.
- 3.8 Fylde has an obligation to consider how it can assist in meeting unmet need within the HMA and in that duly cooperate. It is evident from the letter dated 23 January 2017 that Fylde has not consider the matter as it is stated therein, 'This letter is intended to clarify the information that Fylde Council would need to be provided with if (my emphasis) it is to consider your request for assistance in meeting your Objectively Assessed Need (OAN) by providing housing sites in Fylde'. It reads as though Fylde's position is that the unmet need in the HMA is Wyre's problem that has no implications for Fylde. Fylde failed to recognise that it has an obligation to consider such a request and respond accordingly with evidence to support their position.

e. Should the Plan include a commitment to help meet any unmet housing needs or to review the Plan?

- 3.9 Yes, the Plan should include a commitment to help meet any unmet housing needs or to review the Plan.
- 3.10 Although the precise figure of the shortfall in Wyre housing land supply is not known, Fylde has been advised that it is about one third of the OAN requirement of 9,580 dwellings. Fylde should have considered what additional sites could come forward to assist and indicate these on the Adopted Policies Map. This can be done by modification.
- 3.11 It is Wyre's position that deferring the matter until a review of the Fylde Local Plan is not appropriate or acceptable. It is national policy to meet housing needs in the HMA in full in an expedient manner. Assuming the Fylde Local Plan is adopted at the end of 2017, a review will not be completed until at least 2021 assuming it starts in earnest in 2018.
- 3.12 If it is considered that the matter can be considered as part of a review the Plan should include a trigger for review. National policy emphasises the urgent need to significant increase in housing supply as reflected in the recent White Paper. A review will need to start immediately on adopting this Local Plan.