

EiP Statement

Fylde Council Local Plan

Our ref 41917/02/MW/KH
Date 13 March 2017
To Programme Officer
From Lichfields

Subject **Matter 1 – Compliance with statutory procedures and legal matters**

1.0 Introduction

- 1.1 Lichfields is instructed by Taylor Wimpey UK Limited [Taylor Wimpey] to make representations on its behalf to the Fylde Council Local Plan [FCLP].
- 1.2 This statement has been prepared in response to the Matters, Issues and Questions raised by the Inspector for the Matter 1 Examination in Public [EiP] hearing sessions.
- 1.3 Separate representations have been submitted in respect of the following Matters:
- 1 Matter 2 – Objectively assessed housing and economic development needs;
 - 2 Matter 3 – Housing and employment requirements; and,
 - 3 Matter 4 – Vision, objectives and development strategy.
- 1.4 The representations should be read in conjunction with previous submissions on the FCLP [Representor ID: 60] as well as those made on other Matters listed above.
- 1.5 Taylor Wimpey is seeking to bring forward a high quality residential extension on land at Weeton Road, Wesham. This would assist in the delivery of sustainable development within the Borough by making a significant contribution towards meeting the need for market and affordable housing.
- 1.6 This statement expands upon Taylor Wimpey’s previous representations in light of the Inspector’s issues and questions. Where relevant, the comments made are assessed against the tests of soundness established by the National Planning Policy Framework [the Framework] and the National Planning Practice Guidance [Practice Guidance].

2.0 Planning Issues

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?

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

- 2.1 Table A of the Council’s Statement of Compliance with the Duty to Co-operate (August 2016) [EiP Ref. SD007] sets out the strategic matters for Fylde and its evidence of cooperation with neighbouring authorities in preparing the FCLP. Whilst Taylor Wimpey has no comment on the list of strategic matters, the objector is concerned that there is no evidence of the Council

cooperating with neighbouring authorities in relation to unmet housing needs. Instead, the document simply states that “*In meeting its own housing requirement figure, Fylde is not able to accommodate any unmet need of neighbouring authorities if such a request is made*”. This position is clearly at odds with the requirements of the Planning and Compulsory Purchase Act 2004 and therefore the Council has failed to meet its statutory obligations.

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 strategic matters? In particular:

a. What has been the nature of any cooperation and have any mechanisms or formal agreements been established? Is the Memorandum of Understanding by authorities within the Fylde Coast Housing Market Area (HMA) up to date and effective in this regard?

2.2 The Memorandum of Understanding [MoU] which forms Appendix 2 of the Statement of Compliance is dated February 2015. It confirms that the Fylde Coast authorities will work together to “*reach a consensus on housing provision across the Fylde Coast sub-region*” [§4.12]. The MoU was prepared over two years ago and does not contain any points of agreement relating to the levels of housing need and how it should be distributed across the HMA. It is therefore clear that a consensus on housing provision has not been achieved.

2.3 Overall, the MoU is not effective as it fails to ensure that the housing needs of the HMA are planned for in full. It particularly fails to show how the shortfall in provision by Fylde Council will be addressed by the other HMA authorities (see also our Matter 2 paper). The Council has therefore failed to meet the requirements of the Framework [§47, §159 & §§178-181].

b. Has the Council tried to resolve any issues through cooperation and what have been the outcomes?

2.4 Wyre Borough Council has made it extremely clear that it will be unable to meet its own objectively assessed housing need. The Council is aware of Wyre’s position and its request for assistance from neighbouring authorities, yet this important strategic issue remains unresolved.

2.5 This is at odds with the Framework [§§178-181] and Practice Guidance [ID: 9-009-20140306], which state that cooperation should produce effective policies on cross boundary strategic matters. However, it also recognises that effective cooperation is “*unlikely to be met by an exchange of correspondence, conversations or consultations between authorities alone*”.

2.6 Recent decisions of Local Plan Inspector’s¹ have found that cooperation must be meaningful and have a clear outcome. This cannot be said to be the case in this instance, as Council does not have an effective strategy in place to address the cross-boundary issue of unmet housing needs in the HMA. It has therefore failed to meet the obligations imposed by the Duty to Cooperate.

c. Is there robust evidence to support the cooperation activities that have taken place?

2.7 Taking into account the issues raised throughout this response in relation to the unmet housing needs in the Fylde Coast HMA, it is Taylor Wimpey’s view that the Statement of Compliance

¹ http://www.stalbans.gov.uk/Images/ID-7CONCLUSIONSlettertotheCouncil_tcm15-56449.pdf and <https://www.castlepoint.gov.uk/download.cfm?doc=docm93jjjm4n2870.pdf&ver=4522>

does not provide robust evidence to demonstrate that statutory requirements of the Duty to Cooperate have been met.

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?

- 2.8 The Duty to Cooperate forms part of the tests of soundness in that to be “positively prepared” a plan must be based on a strategy which seeks to meet objectively assessed development and infrastructure needs (see Framework §§179-181) . It includes unmet requirements from neighbouring authorities where it is reasonable to do so, and to be “effective” a plan must be based on effective joint working on cross boundary strategic priorities.
- 2.9 The Framework [§179 & §182] makes it clear that where an authority is unable to meet its objectively assessed development needs, it must be demonstrated under the statutory duty to cooperate that the unmet need is to be met in another local authority area in order to fully meet development requirements across housing market areas.
- 2.10 The Government proposes, in its Housing White Paper, that authorities will be expected to prepare a Statement of Common Ground, setting out how they intend to work together to meet housing requirements that cut across authority boundaries. It makes clear that:
- “Where an authority has demonstrated that it is unable to meet all of its housing requirement, it must be able to work constructively with neighbouring authorities on how best to address the remainder. The duty to co-operate already places a legal requirement on local planning authorities to collaborate where cross boundary issues arise during plan-making” [§1.9].*
- 2.11 The 2014 Fylde Coast Strategic Housing Market Assessment [SHMA] undertaken by Turley concludes that the three authorities making up the Fylde Coast area (Fylde Council, Wyre Borough Council and Blackpool Council) operate as a relatively strong and distinct housing market area due to high level of self-containment and the movement of people to surrounding authorities being relatively limited [§3.28]. Analysis undertaken in relation to Matter 2 confirms that the Fylde Coast should be considered as part of one HMA.
- 2.12 Fylde Council’s ‘Statement of Compliance with the Duty to Co-operate’ (August 2016) is prepared on the basis that the Fylde Coast operates as a HMA. As a consequence, the Council, through the Duty to Cooperate, must agree how the identified housing needs for the HMA will be met by the three local authorities.
- 2.13 Wyre Borough Council is at an early stage of its Local Plan preparation and acknowledges that confirming its Local Plan housing requirement and its distribution is a priority². In May 2016, Wyre Borough Council wrote to neighbouring authorities (including Fylde Council) under the Duty to Cooperate to request assistance in meeting its objectively assessed housing need as its supply of deliverable land is constrained by highways capacity, flood risk and Green Belt.
- 2.14 In an update to the Overview and Scrutiny Committee in November 2016, Wyre Borough Council’s Planning Policy and Economic Development Manager clarifies that no local authority has indicated that they are able to assist the Council in meeting its OAHN. The report concludes that:

² Wyre Borough Council Overview and Scrutiny Committee 7th November 2016: Wyre Local Plan Preparation Update

“This is a matter that requires further collaboration and in particular with Fylde and Blackpool who share responsibility for housing needs within the joint Housing Market Area once the highways evidence can be shared with adjoining authorities”.

2.15 Taylor Wimpey has not undertaken an in depth review of the minutes of meetings between Blackpool, Fylde and Wyre Borough Council , but it is clear that Fylde Council has not fulfilled its obligations under the Duty to Cooperate in relation to the implications of strategic housing matters. In particular, the adoption of the current Local Plan will result in the failure to meet the housing needs of the HMA. This is a wholly unacceptable position and contrary to national guidance and the objectives of the Duty to Cooperate process.

b. Has cooperation led to an agreed mechanism for the delivery of unmet housing needs within the HMA?

2.16 The latest information from the SHMA and its subsequent Addendums 1 (2014) and 2 (2015) identifies the housing requirement for the three Fylde Coast authorities. As indicated in Table 1, the housing targets for Fylde and Wyre conflict with the findings of the housing evidence base.

Table 1 Fylde Coast Authorities Housing Requirement Position

Local Authority	Housing requirement (dpa)	SHMA Addendum 2	SHMA Addendum 1
Fylde	370 (2011 – 32)	370 – 450	351 – 430
Wyre		400 – 479	410 – 488
Blackpool	280 (2012 – 27)		290 – 366
Total	650	770 – 928	1,051 – 1,284

Source: Fylde Coast SHMA, Addendum 1 (all FCA authorities) and Addendum 2 (Blackpool and Fylde only)

2.17 Whilst Taylor Wimpey’s concerns in relation to the identified objectively assessed housing need are set out in detail in its response to Matter 2, it is clear that the Fylde Coast authorities are not ensuring that the housing needs of the HMA are planned for in full.

2.18 Taylor Wimpey note that the Statement of Compliance prepared by the Council outlines the requirements of the Framework [§182] and in doing so refers to the request made by Wyre Borough Council to assist in meetings its OAHN. The Council is therefore clearly aware of its obligations under the Duty to Cooperate. However, the Statement of Compliance pays very little regard to the issue of the delivery of unmet housing needs within the HMA. The purported reason for this is due to the exact extent of unmet need being unknown. The report concludes that the Council will continue to work with Wyre and its other neighbours once the evidence base is complete, in order to avoid any delay to the adoption of the FCLP.

2.19 This position is clearly at odds with the requirements of the Duty to Cooperate. Whilst it is recognised that the Framework places a strong emphasis on local planning authorities having an up-to-date plan in place, and the Government has imposed a 2017 deadline for the adoption of local plans, this does not absolve the Council of its statutory duties. In this context, it is noted that the Housing White Paper reiterates the importance of all areas of having an up-to-date plan

in place and sets out measures to ensure that local authorities will work together to meet housing requirements.

- 2.20 The Council's Statement of Compliance goes on to state that it is unclear what provision other neighbouring authorities will be able to make in meeting unmet housing needs. In this regard, it is noted that Blackpool adopted its Local Plan Part 1: Core Strategy 2012 – 2027 in January 2016. Whilst the Blackpool Local Plan includes a commitment to ensuring the overall housing needs of the housing market area are met in full [§5.23], the authority's persistent under-delivery of housing against previous plan requirements and its constrained boundaries means that it is unlikely to be able to assist Wyre in meeting its housing requirements.
- 2.21 Furthermore, as set out above, Wyre Borough Council has confirmed that no local authority has indicated that it is able to assist with meeting its unmet needs. This confirms the important role that Fylde has to play in making a contribution towards unmet objectively assessed needs in the HMA. The failure of the Council to address this issue does not mean that the housing needs of Wyre have not gone away; indeed they **must** be met elsewhere in the HMA.
- 2.22 If both Fylde Council and Wyre Borough Council cannot meet their respective housing needs and maintain a five-year deliverable supply of housing land, this clearly indicates that a review of Green Belt boundaries is required.
- 2.23 The approach of the Council and its failure to agree a mechanism for the delivery of unmet housing needs within the HMA is therefore inadequate and fails to meet the statutory Duty to Cooperate and tests of soundness.

c. In what way has this influenced the Plan?

- 2.24 The FCLP does not acknowledge the issue of unmet housing needs in the HMA. This is a clear failing in terms of the tests of soundness in that the plan is not positively prepared, nor is it effective.

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

- 2.25 The Framework [§47] states that local planning authorities should meet their own housing need and meet the needs of other authorities in the same housing market area, subject to consistency with its other policies. This obligation is reinforced in the Housing White Paper, which makes clear that local authorities will be expected to work together to meet housing requirements and other issues that cut across authority boundaries.
- 2.26 The Practice Guidance [ID: 9-001-20140306] specifies that the Duty to Cooperate requires authorities to work effectively on strategic planning matters that cross their administrative boundaries. It advises that the Duty to Cooperate is not a 'duty to agree' and local planning authorities are not obliged to accept the unmet needs of other planning authorities if they have robust evidence that this would be inconsistent with the policies set out in the Framework.
- 2.27 However, for the reasons set out above, Taylor Wimpey does not consider that the Council has sufficiently justified or evidenced its position that it is not unable to meet of its own housing needs nor has it shown that the unmet housing needs of neighbouring authorities could not be accommodated in the Borough. There is therefore a fundamental failing with the Local Plan as it fails to meet the statutory requirements.

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

- 2.28 It is widely acknowledged that there is an urgent need to increase the supply of housing in England. In this regard, it is imperative that the Council makes clear how it intends to address the matter of unmet housing needs in the Fylde Coast HMA. The FCLP fails the tests of soundness in that it effectively disregards the request of Wyre Borough Council to assist in meeting its housing requirement without any justification.
- 2.29 Of particular relevance in the consideration of this matter are the interim conclusions of Inspector Jonathan Bore in relation to the housing requirements for Mid Sussex. In his letter dated 20th February 2017, Mr Bore urges Mid Sussex Council to increase its housing target by 28% in order to counter worsening affordability and to assist a neighbouring authority meet its unmet housing need. In this instance, the Inspector makes clear that the Local Plan should make a commitment that the Council will co-operate with relevant authorities in the HMA to carry out a cross boundary study in a short space of time, and that this work will be taken into account in the next review of the District Plan.
- 2.30 Taylor Wimpey considers that it is entirely reasonable for the Council to adopt such an approach in order to end the uncertainty of where the unmet housing needs in the Fylde Coast HMA will be accommodated. The Council must also accept that it is likely to need to plan on the basis of a higher requirement than forecast in order to assist in meeting these unmet needs. Furthermore, as set out in the response to Matter 2, the Council is not even meeting its own needs.

Issue 2 – Has the Plan been positively prepared in accordance with other legal and procedural requirements?**6. Is the plan period of 2011 to 2032 justified? Is the plan period set out with sufficient clarity in the Plan?**

- 2.31 The Framework [§157] states that Local Plans should be drawn up over an appropriate time scale, preferably a 15-year time horizon, take account of longer term requirements, and be kept up to date.
- 2.32 The FCLP currently covers the period up to 2032. The remaining plan period is therefore effectively 15 years. Taking into consideration the fact that the FCLP has yet to be adopted, this timeframe may reduce further. Taylor Wimpey therefore considers that the plan period should be extended to give more flexibility, particularly if a strategic review of the Green Belt is necessary to meet housing requirements.