

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

BETWEEN

FYLDE BOROUGH COUNCIL

and

THE SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL
GOVERNMENT



Defendant

~~DRAFT~~ CONSENT ORDER

TAKE NOTICE that we, the undersigned solicitors acting for the Claimant and Defendant in the above claim, HEREBY CONSENT to an Order in the following terms:

BY CONSENT IT IS ORDERED THAT:-

1. The Claimant has leave to bring its claim for judicial review.
2. The report of the Defendant's Inspector on Fylde Borough Council's Annual Position Statement dated 15 January 2020, be quashed and remitted to the First Defendant for reconsideration, for the reasons set out in the Schedule to this Order.
3. The Defendant do pay the Claimant's costs in the agreed amount of £1591.35, in full and final settlement of any costs claim the Claimant may have arising from this matter.

By the Court

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SCHEDULE

1. These proceedings concern a challenge to a Report dated 15 January 2020 produced by an Inspector appointed by the Defendant confirming whether, in accordance with paragraph 74 of the National Planning Policy Framework, the Claimant could demonstrate a deliverable supply of housing land through its Annual Position Statement. The Report concluded that the Claimant could not demonstrate a five-year housing land supply, and thus could not demonstrate a deliverable supply of housing land through its Annual Position Statement.
2. The Defendant has carefully considered the said Report in light of the Claimant's Statement of Facts and Grounds and supporting evidence. The Defendant concedes that his Inspector erred in law by failing correctly to understand and apply paragraphs 73 and 74 of the National Planning Policy Framework and related national guidance.
3. The Inspector concluded, on the evidence, that the Claimant was unable to demonstrate a five-year supply of deliverable housing land as at 1 April 2019. That finding turned on the Inspector's decision that the Sedgfield methodology should be used to address housing shortfall when calculating the Claimant's housing requirement, as opposed to the Liverpool methodology endorsed by the Local Plan Inspector. He was not entitled to use a different housing requirement from that set out in the adopted Policy of the Local Plan.
4. Paragraph 73 of the NPPF provides that local planning authorities "should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old". Consequently, NPPF para. 73 defines the "housing requirement" against which an authority's five year housing land supply should be assessed i.e. it is the housing requirement set out in adopted strategic policies where (as in the present case) those policies are less than five years old.
5. Consequently, and for the above reason, the Inspector erred in law by using a housing requirement that differed from the minimum housing requirement in Policy H1 of the Claimant's recently adopted Local Plan.
6. The Claimant and Defendant therefore agree that it is appropriate, for the above reason, for the Court to make an Order quashing the Report and remitting the Report for reconsideration.