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Dear Allan,

Fylde Local Plan - Publication Draft

Thank you for the opportunity to make representations on the publication version of the Fylde Local Plan. Wyre Council has looked at the publication version of the Plan and the various supporting documents published for consultation.

Our comments relate primarily to whether the Publication version of the Local Plan is sound and meets the tests set out in paragraph 182 of the NPPF and in particular whether the Local Plan is "positively prepared", "justified" and "effective". As stated in paragraph 182 the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development.

It is Wyre Council's view that the Fylde Local Plan is unsound and has not complied with the Duty to Cooperate, (DTC).

Paragraph 3.36 of the Statement of Compliance within the DTC states that Fylde Council is not aware of any objections to the overall soundness of the emerging Local Plan and states that no concerns have been expressed by Wyre regarding the level of co-operation undertaken by Fylde Council.

Wyre Borough Council takes issue with that statement. Although there has been co-operation between the two Council's, Wyre considers that Fylde in preparing the Local Plan has failed to properly consider whether unmet housing needs arising in Wyre can be met in Fylde. Fylde has not positively engaged with Wyre on this issue. Consequently the Fylde Local Plan fails the tests of soundness set out in paragraph 182 of the NPPF and it is therefore unsound.

Paragraph 156 of the NPPF sets out the strategic priorities that a Local Plan should cover; this includes the provision of homes needed in the area. Paragraph 178 confirms that public bodies have a duty to cooperate on planning issues that cross administrative boundaries, particularly those listed in paragraph 156. It is clear that housing provision is a key strategic priority to be considered under the DTC.

As set out in the Fylde Statement of Compliance with the DTC, both Wyre and Fylde

Councils are part of the Fylde Coast DTC meeting group, and both authorities are signed up to the Fylde Coast DTC Memorandum of Understanding (MOU). The MOU sets out the key issues for DTC between the Fylde Coast Authorities, the first of which is housing.

The MOU to which both authorities are signatories states "*we will work together to [...] reach a consensus on housing provision across the Fylde Coast sub-region*". Unfortunately this goal has not been achieved and as such Wyre Borough Council considers it necessary to now formally object to the Fylde Local Plan.

There has been on-going collaboration through the Fylde Coast DTC group over a number of years and this has led to the production of a shared housing evidence base: the Fylde Coast Strategic Housing Market Assessment (SHMA), and addendums. The SHMA covers the 3 Fylde Coast Authorities (Blackpool, Wyre and Fylde) and reflects the Housing Market Area that covers the Fylde Coast. The SHMA identifies the Objectively Assessed Need (OAN) for the Housing Market Area and presents this broken down by District/Borough. Originally it was envisaged that each Local Authority would be able to meet its own OAN within its boundaries. Indeed this was still the position during the Blackpool Core Strategy examination in May 2015. At the time Wyre had no evidence that it would not be able to meet its OAN within the Borough boundary.

However, as work has progressed on the Wyre Local Plan and the evidence base has been brought together it has become clear that Wyre will not be able to meet its own needs in full within the Borough boundary. Wyre has raised this issue with all neighbouring authorities individually under the DTC and at meetings of the MoU Fylde Coast officer and joint officer and Member groups.

In terms of engaging with Fylde, Wyre alerted Fylde to the possibility of not being able to meet its own OAN at a DTC meeting between the authorities on the 8th May 2015. The minutes reflect that whilst at this point in time it was not confirmed that Wyre would need assistance it was raised as a potential future issue.

The issue was discussed at a Fylde Coast DTC meeting on 3rd July 2015 where it is minuted at that meeting that the housing requirements would be a challenge. At this meeting Wyre confirmed they would be carrying out a Green Belt review. At the Fylde Coast DTC meeting of 22nd September 2015 Wyre confirmed that a formal approach would be made to neighbouring authorities for assistance with meeting Wyre's housing requirements in writing.

Officers of Fylde Council have also been present at the Lancashire Development Plan Officers Group (DPOG) meetings where Wyre has raised its inability to meet its housing needs. Also, Wyre has held frequent meetings with Lancashire County Council and Highways England representatives to discuss highways capacity constraints in the Borough, and how to maximise the amount of Wyre's needs that can be met within an improved highways network. Officers from Blackpool and Fylde have attended most of these meetings and have been fully engaged in the discussion and it has been acknowledged at these meetings that any unmet need in Wyre will need to be considered by neighbouring authorities.

In addition to the various meetings listed above where this issue has been raised, Wyre has formally written to Fylde under the DTC banner requesting assistance in meeting its portion of the Fylde Coast Objectively Assessed Need (letter dated 4th May 2016 attached and thereafter referred to as 'Letter A'). Following a response from Fylde (dated 18th May 2016 thereafter referred to as 'Letter B'), Wyre again wrote to Fylde in a letter (dated 24th May 2016 thereafter referred to as 'Letter C'). No further communication has been received from Fylde.

The written correspondence between our authorities is noted in the Statement of Compliance with the DTC at paragraph 3.22¹. Paragraph 3.23 sets out what the main constraints faced by Wyre are; reflecting the content of Letter 'A'; and the agreed constraints set out in the Memorandum of Understanding.

Paragraph 3.24 – 3.26 of the DTC Statement explain that the exact number of units not able to be delivered within Wyre is currently unknown and states that Fylde is committed to continuing to work with Wyre. These three paragraphs sum up the consideration that has been given to meeting the unmet need arising in Wyre in the published documents. It is Wyre's position that Fylde has not proactively engaged with Wyre on a strategic issue for which Fylde has joint responsibility; that is the housing need within the Fylde Coast Housing Market Area. Although the need to avoid delaying the Local Plan process is shared it cannot be used to submit plans that are not positively prepared and which do not consider fully the housing need within the Housing Market Area.

In Letter 'A' Wyre advised Fylde that highway capacity poses a severe restriction on meeting housing needs within the Borough and that it is likely that the Local Plan will only be able to accommodate two thirds of the total figure of 9580 dwellings. This would not have come as a surprise to Fylde since Fylde officers attended highway meetings with LCC and HE discussing the highways situation in Wyre. The figure was also referred to the last joint officer and Members MoU meeting in June 2016. Although the exact amount of unmet need is not known, Fylde is aware of the broad scale of unmet need and Policies in the Fylde Local Plan should have been flexible to respond to anticipated needs over the Plan period (NPPF paragraph 21). The NPPF at paragraph 21 further refers to policies being 'flexible enough to accommodate needs not anticipated in the plan and to allow rapid response to changes in economic circumstances'. It is clear that the NPPF requires Local Plans to be flexible.

The only consideration of this strategic issue that has been shared with Wyre is the Letter 'B' and the discussion at the last joint Officer and Members MoU meeting. Letter 'B' considers a number of challenges faced by Fylde which appear to be offered as reasons why Fylde cannot assist in meeting Wyre's unmet housing need. I consider these in turn below.

First the letter lists the capacity of junctions 3 and 4 of the M55 as an area of concern. The letter states that Fylde has received a holding objection from Highways England concerning these junctions. In Letter 'C' it was explained that it was Wyre's understanding that the reason for the HE objection was that Fylde had not produced sufficient evidence to support the Local Plan position and was undertaking further work to establish the constraints to junction 3 and 4 from growth within Fylde. As the Local Plan has been published, it is assumed that the holding objection has been lifted. No highways evidence has been published in support of the Local Plan and none has been shared with Wyre. The highways situation in Fylde was raised as an issue at the last MoU meeting in June and reference was made to highways evidence in preparation. It is understood that such evidence is still in preparation. Wyre has not been invited to any highway meetings that you would have had with LCC and HE. Wyre expects that any such evidence should include consideration of any potential mitigation measures that could be delivered to support further development. It is perplexing why Fylde has published its Local Plan when the evidence supporting it is not in place. There is no evidence that consideration has been given to accommodating any additional need in the Housing Market Area arising in Wyre in terms of what the maximum capacity of these junctions is.

Second, letter 'B' raises the issue of commuting that would result if identified need in Wyre is met in Fylde. Most of Wyre and Fylde are in the same Housing and Economic Market Areas

¹ The correspondence is also referred to in the Housing Requirement Paper 2016, where the text is essentially the same as the DTC Statement.

which implies an accepted level of cross boundary movement. The Government must consider such commuting within the HMA acceptable as would result from a housing requirement being met in an adjoining local authority. In any event, as noted in Letter 'C' the greatest net out commuting from Wyre for work is to Fylde. Also as you will be aware the joint Fylde Coast Strategic Housing Market Assessment (SHMA) does not seek to alter existing commuting patterns, which is an accepted best practice in SHMA methodologies. The 2013 Joint SHMA carried out sensitivity testing around commuting (Paragraph 8.4 onwards) and specifically considered a scenario assuming a balanced commuting rate. If such an approach was accepted by the joint authorities then a greater amount of housing would have to be provided within Fylde. However there is a variety of factors influencing where people choose to live in relation to where they work and Wyre does not advocate that provision of housing within the HMA should seek to balance commuting patterns. It must also be remembered that commuting information is relative to administrative boundaries and in practice crossing administrative boundaries – e.g. 'commuting' may involve a shorter journey than if travelling to work within a single Borough. As set out in Letter 'C', Wyre do not consider this matter to be a restrictive constraint that would prevent housing delivery in Fylde.

Third, Letter 'B' lists wintering wildfowl as a potential constraint that may prevent Fylde from assisting Wyre in meeting unmet housing needs. It is stated in the letter that the impact of developing further sites on wintering wildfowl would need to be assessed and if necessary mitigated or compensated. Wyre agrees that the impact on wintering wildfowl will have to be assessed. No evidence has been shared with Wyre as to whether this exercise has been undertaken. Letter 'B' also states that Natural England had expressed concern regarding the potential impact of the scale of development currently proposed in Fylde. Natural England's comments (appendix D to the publication version Habitats Regulation Assessment) would appear to relate primarily to the fact that there was not sufficient information in the draft HRA to conclude that there will be no 'Likely Significant Effects'. The concern was not regarding the overall quantum of development proposed in the Plan but ensuring adequate assessment.

The Housing Requirement Paper indicates that development is constrained by ecological matters, that being functionally linked land associated with international designations. This is a definitive statement that is not supported by evidence in the Habitat Regulation Assessment Screening.

There is no evidence that alternative growth options have been assessed. Further sites should be considered and their individual and cumulative impact established. Without such an assessment, there appears to be no evidence to justify constraining development due to the presence of 'functionally linked' land. It would not be until mitigation and compensation measures are considered as part of the Appropriate Assessment stage (if required following Screening stage) that sites could be discounted due to functionally linked land.

Fourth, Letter 'B' describes how you arrived at your OAN figure and suggests that if additional land is to be made available then the question is whether it could be used to achieve a higher OAN for Fylde rather than address unmet need in Wyre. It is a perplexing argument because it implies that your Local Plan is setting an OAN figure below what it actually is. It is as if the figure of 370 dwellings represents the housing requirement rather than the OAN figure.

Letter 'B' goes on to suggest that there is value in discussing further why Wyre is seeking to deliver the full OAN at the higher end of its range (400 – 479 dwellings) given the number of constraints. In essence Fylde has questioned whether the 479 figure is the appropriate OAN figure. Letter 'C' explains why Wyre considers the figure of 479 dwellings a year to be the appropriate OAN. This matter was further discussed at the last joint officer and

Members MoU meeting. As stated above the OAN figure should not be influenced by constraint considerations. I refer you to the Court of Appeal decision in the Hunston Properties case²; the essential point in Hunston was that the assessment of 'full objectively assessed needs of market and affordable housing in the housing market area' as required by NPPF paragraph 47 should be an objective assessment and not constrained by the application of constraints.

Whilst Wyre in no way wishes to delay the progress of the Fylde Local Plan, the lack of further communication after Letter 'C' and the last joint Officers and Members MoU meeting on the 22nd of June which specifically discussed the situation in Wyre and the lack of evidence to support the reasons why Fylde asserts that it cannot help in meeting our unmet housing need in Wyre leads the Council to conclude that insufficient consideration has been given to the strategic issue of meeting the housing need within the joint HMA. At the last joint officer and Member MoU meeting the issues arising in Wyre were discussed including the need for Fylde and Blackpool to evidence their position with regards to meeting need arising in Wyre within the HMA.

There has not been any further engagement with Wyre since the meeting to share any information on constraints within Fylde. Paragraph 3.24 in your Statement of Compliance with the Duty to Co-Operate, implies that your approach to this issue is to wait until all other neighbouring authorities have considered capacity to assist Wyre before you undertake the exercise to consider whether there is suitable and deliverable land in Fylde to assist with Wyre's requirements. Such an approach would not work. Each adjoining authority needs to consider how they can assist individually before there is a joint discussion. As referred to in the last MoU meeting Fylde and Blackpool have joint responsibilities in meeting the need within the joint HMA.

Wyre in its attempt to meet its OAN in full, has carried out a Green Belt Study and has considered expanding a number of villages in some cases doubling their current size. Wyre has left 'no stone unturned' in its attempt to accommodate the OAN. It is as a last resort that Wyre has asked neighbouring authorities for assistance and in that Wyre must ensure that neighbouring authorities give this matter proper consideration.

Sustainability Appraisal

The Sustainability Appraisal of the Publication version includes an assessment of the housing allocations, including an assessment of alternative options that have been discounted. Appendix J covers the sites that have been assessed for sustainability and Appendix K provides a commentary why the sites have not been taken forward.

Following a review of the sites sustainability scoring key themes for discounting sites include:

1. A theoretical 'upper development limit' has been set for each settlement. As far as can be seen there is no explanation/justification for setting an upper growth limit. The justification contained in the Sustainability Appraisal does not limit the capacity of any settlement due to infrastructure or site specific constraints. Furthermore, there does not appear to be evidence in the sustainability appraisal that reviews the impact of different growth scenarios for settlements to justify such an approach.

For example, no further allocations are made in Wrea Green and Weeton as existing commitments have reached Local Plan capacity. However as stated above there do not appear to be any planning reasons preventing further expansion.

² R (Hunston Properties Ltd) v SSCLG and St Albans City and District Council [2013] EWCA Civ1610

2. Some of the discounted sites have similar scores to other sites allocated within the same strategic location. In some cases, the higher score of the site that is allocated appears to be due to that site benefitting from an approved planning permission that has secured sustainability measures and enhanced the site sustainability score. The Local Plan could secure similar measures to make these alternative sites as sustainable as the allocated sites. Thus these alternative sites could achieve a higher sustainability appraisal score than that shown in the SA. The SA does not appear to have considered how sites can be made sustainable.
3. 'Too much development in this area would be unsustainable/ have negative implications on the Borough's settlement'. There is no explanation as to the basis of the statement. As stated above a site can be made sustainable if it incorporates similar measures to the strategic sites such as the approved Whyndyke Farm.
4. There is no landowner or developer interest. Have landowners been contacted to ascertain their interest beyond contacting landowners who submitted a site through the 'call for site'? It is not clear from the evidence whether if insufficient developable sites were submitted through the 'call for sites', whether Fylde carried out an exercise identifying suitable land and then contacting those landowners to ascertain their availability.
5. Sites assessed in Elswick and Warton amount to a capacity of over 500 dwellings and are discounted because the sites will be considered through the preparation of a Neighbourhood Development Plan. As stated above sites in Warton and Elswick could be deliverable but are discounted because of a theoretical upper limit set in the Local Plan restricting growth in to these settlements.

Furthermore it appears that the Local Plan abdicates responsibility to Neighbourhood Planning to allocate land in Elswick. There is also no certainty that sites will be delivered through the Neighbourhood Planning process and the Local Plan has no 'fall back' position thus affecting its own deliverability.
6. Sites are not included because of a Development Management Committee decision. No planning justification is provided why such sites could not be developed. It is assumed that the decision related to the refusal of planning permission. It is feasible that if a site was previously refused permission, for example due to a technical constraint which could be overcome by a different scheme or different design, that it could be a valid alternative/additional site.
7. Three sites are discounted at Little Singleton because they are located in the countryside. Little Singleton could be defined as a settlement and the settlement boundary could look to include such allocations. It is noted however that there is an allocation at Little Eccleston which is also located in countryside. I understand that the site has planning permission but its allocation gives it a different status.

The above show that Fylde could assist Wyre in meeting housing need within the Joint HMA. As Wyre is not publishing its Local Plan until later in the year when the highways evidence is complete, Fylde could allocate reserve sites in order of priority to be released in support of the Wyre Local Plan in meeting housing need within the joint HMA.

Fylde Infrastructure Delivery Plan (IDP)

The published Infrastructure Delivery Plan (IDP) makes reference at several points to "Wyre CIL" funding to be used to support various highways improvements on the M55 and A585.

There has been no engagement with Wyre regarding the inclusion of potential Wyre CIL funds as a funding source in the Fylde IDP. References to Wyre CIL should be deleted.

The IDP makes reference to the Great Eccleston Health Centre and acknowledges that it serves the needs from Elswick and Little Eccleston. An allocation proposes 25 dwellings in Little Eccleston and another 50 at Elswick. It appears that the IDP does not consider the capacity at the Great Eccleston Health Centre in terms of cumulative impact of growth in Great Eccleston, Little Eccleston and Elswick. It is not clear whether Fylde has had discussions with Greater Preston CCG which covers Great Eccleston as there is no reference to it. This matter was raised in our representations on preferred options but no information has been shared with Wyre. Wyre is in the process of confirming with Greater Preston CCG the requirements for the Great Eccleston Health Centre and if it will require expansion this needs to be acknowledged in the IDP and Fylde Local Plan so as to secure financial contributions from development in Elswick and Little Eccleston.

It is also not clear from the IDP whether Fylde has had discussions with the Local Education Authority about the implication from development in Fylde for schools in Great Eccleston. The existing primary school on Copp Lane does have some capacity but it is not sufficient to accommodate growth both in Great Eccleston and Elswick/Little Eccleston.

Conclusion

Wyre is disappointed that Fylde did not positively engage on strategic matters and cross boundary infrastructure matters before publishing the Local Plan. Insufficient evidence has been shared with Wyre in support of Fylde's position. It appears that Fylde has rushed to publish the Local Plan without the evidence in place to enable effective consultation on the draft plan and without giving due consideration to the housing needs within the joint Housing Market Area.

Fylde's apparent response to the significant deficiency in deliverable housing land supply in Wyre to meet identified needs within the joint HMA, is to do nothing until the exact number is known and after other Local Authorities have indicated what assistance can be offered to Wyre. Fylde has published its Local Plan without any further engagement with Wyre on this issue and whilst the evidence in support of its position is not complete.

There are a number of references in the NPPF to the need for Local Plans to be flexible and most relevant to the matter in hand is paragraph 14 which states "Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change". The Fylde Local Plan should have made provision for the anticipated shortfall in Wyre by allocating reserve sites.

Wyre has no alternative than to object to the Fylde Local Plan on soundness grounds that it has not been positively prepared, it is not justified and it is not effective as required by the tests of soundness.

Yours sincerely,



Garry Payne
Chief Executive Officer