

# Fylde Local Plan Examination

## Matter 1

### Compliance with statutory procedures and legal matters

## Hearing Statement

On behalf of Oyston Estates

## 1.0 INTRODUCTION

- 1.1 Cassidy + Ashton are retained by Oyston Estates [OE] in respect to a number of sites within Fylde Borough including Whyndyke Garden Village, the largest development site within the Borough.
- 1.2 In respect to the Local Plan, OE are promoting the allocation of additional land at Lytham St Annes, the identified most sustainable settlement within the Borough.
- 1.3 Comments made should be read in conjunction with our previous submissions to the Local Plan process, in particular in respect to the Submission Version of the Local Plan.
- 1.4 The format of this statement follows the Inspector's own Matters Issues and Questions dated 6<sup>th</sup> February 2017.

### ***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?***

#### ***Question 1.***

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

- 1.5 OE accepts that Fylde forms part of the wider Fylde Coast Housing Market Area (Fylde Coast HMA), alongside two other local authorities, Blackpool and Wyre.
- 1.6 Given that there is an identified HMA, the Council should follow the requirements of the NPPF, which states that local authorities should not only;  
  
*"...prepare a Strategic Housing Market Assessment to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries..." [para. 159, NPPF]*  
  
but also must:  
  
*"...use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area..." [para. 47, NPPF]*
- 1.7 Accordingly, Fylde are obligated by the NPPF to cooperate with Wyre and Blackpool in terms of addressing the overall needs of the identified HMA.

#### ***Question 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? 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?**

1.8 It is noted that although the Council have prepared a Memorandum of Understanding, it would appear that there has been little in the way of meaningful co-operation between Fylde and, in particular Wyre Council, in terms of reaching a consensus on housing provision across the Fylde Coast sub-region.

1.9 This seriously undermines the extent to which the Council can claim to have satisfied the duty to co-operate.

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

1.10 Given that there would appear to remain unmet housing needs in Wyre, which could potentially be addressed by Fylde Borough, it would appear that this issue has not been addressed to the extent required.

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

1.11 In the light of the previous response, there does not appear to be any evidence in respect to there having been sufficient cooperation to attempt to address unmet housing needs within the Fylde sub-region.

### **Question 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?**

1.12 OE is not aware of the extent of cooperation, if any, that has taken place.

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

1.13 There does not appear to be an agreed mechanism in place to ensure the delivery of unmet housing needs within the HMA.

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

1.14 The plan would appear to be unsound as the requirement for cooperation and the preparation of a strategy to address unmet need has not been met.

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

- 1.15 The NPPF makes it clear that it is the responsibility of all authorities within an identified HMA to cooperate to ensure the objectively assessed housing need for the entire area is met.
- 1.16 Of the three authorities within the Fylde HMA, Fylde would appear to be the least constrained. It therefore follows that it should make the greatest provision to address the housing needs of other authorities.
- 1.17 It is noted that Fylde Council has stated that this requirement has been met, using the rationale that as Wyre has not established the extent of unmet need, Fylde cannot go any further. However, this would appear to undermine the whole process as set out in the NPPF and indicates that the Fylde Local Plan is in fact, unsound.

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

- 1.18 In order to be considered to have been planned positively, at the very least, the Fylde Local Plan should indicate general locations for addressing potential unmet need for neighbouring authorities.
- 1.19 This would also incorporate a degree of flexibility without having to undertake a full Local Plan Review which would no doubt take several years to complete, in which time the shortage of land in neighbouring authorities would only be exacerbated.

***Issue 2 – Has the Plan been positively prepared in accordance with other legal and procedural requirements?***

***Question 4***

***Has the Plan been prepared in accordance with the Local Development Scheme, including in terms of timing and content?***

- 1.21 OE has no specific comments to make.

***Question 5***

***Has consultation been carried out in accordance with the Statement of Community Involvement and the relevant Regulations?***

- 1.22 OE has no specific comments to make.

***Question 6***

***Is the plan period of 2011 to 2032 justified? Is the plan period set out with sufficient clarity in the Plan?***

- 1.23 OE has no specific comments to make.

**Question 7.**

**Does the sustainability appraisal (SA) adequately assess the environmental, social and economic effects of the Plan? In particular:**

**a. Has the SA followed the correct processes in terms of consultation and content?**

1.24 OE has no specific comments to make.

**b. Does the SA adequately consider the likely significant effects of reasonable alternatives where these exist, including in respect of the scale of housing and employment provision and the balance between them?**

1.25 Alternatives are referred to but the rationale for not selecting these is flawed. Too much emphasis is placed on environmental factors with insufficient weight placed upon social and economic factors.

**c. Have any unreasonable alternatives been noted and if so have reasons been given as to why these have not been selected?**

1.26 OE has no specific comments on this issue.

**d. Does the SA adequately assess the likely significant effects of policies and proposals?**

1.27 No. Sustainable development includes environmental, economic and social factors, yet the overall choice is heavily weighted towards environmental factors, which are themselves unfounded and exaggerated. The allocation of additional land at Lytham St Annes is ruled out solely on the basis of ecological impacts without an up to date assessment, based on the most recent survey data, having been carried out as to whether there are suitable sites which would not have undue ecological impacts.

**e. Is it clear how the SA has influenced the Plan? Is there anything in the SA which indicates that changes should be made to the Plan?**

1.28 The SA has fundamentally influenced the Plan by shifting the distribution of new development away from Lytham St Annes. However, given the acknowledgement that Lytham St Annes is the most sustainable location for new development, this is in itself unsustainable.

**Question 8**

**Has the requirement for appropriate assessment under the Habitats Regulation Assessment (HRA) been met? Is it clear how the HRA screening report has influenced the Plan?**

1.29 No. Although Fylde Council has attempted to undertake a satisfactory assessment under the Habitat Regulations, they have failed to keep up with a significant change in circumstances.

1.30 In August 2016 the Examiner into the St Anne's Neighbourhood Local Plan issued his report [Appendix CA1]. He indicated that a site at Lytham Moss should be incorporated within the settlement boundary.

1.31 Subsequent correspondence with Fylde Council indicated that they would be updating the Appropriate Assessment in order to review this change. They have failed to do so and have now issued the Decision Notice on the Plan with a view to Referendum in May. This makes the Neighbourhood Plan potentially open to challenge.

1.32 The HRA is thus out of date and has unduly influenced the progress of the plan.

**Question 9.**

***Has the Plan been prepared in accordance with the relevant legislation and regulations?***

1.33 OE has no specific comments to make.

**Question10.**

***Are there are any significant departures from national policy in the Plan? If so, have these been justified?***

1.34 OE has no specific comments to make.

## 2.0 APPENDIX

### APPENDIX CA1 – EXTRACT FROM ST ANNE’S NEIGHBOURHOOD PLAN EXAMINER’S REPORT

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