

Fylde Council Local Plan Examination

Stage 1 Hearing Sessions

Matter 1: Compliance with Statutory Procedures and Legal Matters

Submission on behalf of Metacre Ltd

13th March 2017

Introduction

1. This submission is made for and on behalf of Metacre Ltd concerning Matter 1 (Compliance with Statutory Procedures and Legal Matters).
2. The submission is made with respect to the Examination in Public (EiP) *Inspector's Matters, Issues and Questions* (V1, 6th February 2017) and supplements the representations lodged with Fylde Council on the *Local Plan, 2032 Publication Stage* (August 2016). The two should be read together.
3. This submission is concerned with Matter 1 and in particular:
 - Issue 1, Questions 1, 2 and 3;
 - Issue 2, Question 7.

Matter 1, 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:

4. S110 of the *Localism Act* (2011) inserted S33A into the *Planning and Compulsory Purchase Act* (2004) and established a Duty to Co-operate in relation to planning for sustainable development.
5. S33A (sub-section 4) defines the strategic matters that are relevant as sustainable development or use of land that has or would have a significant impact on at least two planning areas. Housing, economic growth and the provision of transport, green and community infrastructure are encompassed within such strategic matters. This sub-section clearly identifies the need for effective engagement in determining housing requirements.
6. S33A is supported through paragraphs 159, 160, 178, 179 and 181 of the NPPF that identifies the Duty to Co-operate on strategic matters including housing as essential in relation to effective, sound, plan-making.
7. The Government has therefore stressed in the NPPF and the Act the critical importance of cross-boundary co-operation on housing matters between Local authorities in the plan making process and emphasised that this must be undertaken properly and rigorously if the Plan is to be found sound.
8. This has subsequently been considered and supported by the Planning Inspectorate in relation to emerging Core Strategies and Local Plans, notably:
 - Coventry City Council Inspector's Preliminary Hearing Session: Duty to Co-operate Report (27th February 2012) – see paragraphs 46 and 53; and
 - Hart District Council Inspector's Letter (26th July 2013) - see paragraphs 4 – 6, 10, 15, 16 and 20. (see Appendix 1)

Question 2

Has the Council maximised the effectiveness of plan-making activities by engaging constructively, actively and on an ongoing 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 co-operation and have any mechanisms or formal agreements been established? Is the Memorandum by authorities within the Fylde Coast Housing Market Area (HMA) up to date and effective in this regard?

9. The Fylde Council *Statement of Compliance with the Duty to Co-operate* (August 2016) (**SD007**) provides a helpful summary of the approach and activities that Fylde Council indicate have been undertaken in order to meet the requirements of the Duty to Co-operate.
10. The *Statement of Compliance* confirms at paragraph 3.6 that there is a Memorandum of Understanding (MoU) between the Fylde Coast authorities (Fylde, Wyre, Blackpool and Lancashire County) and that this formalises ongoing dialogue and co-operation on strategic planning matters, including housing.
11. Metacre are concerned that the approach to meeting the requirements of the Duty to Co-operate have not been fully or effectively discharged with the result that, at this late stage in the Fylde Local Plan preparation process, there remains an unresolved strategic matter in relation to unmet housing needs arising from Wyre District, for which a formal request has been made to Fylde Council for support through the Local Plan to accommodate that need.

b) Has the Council tried to resolve any issues through co-operation and what have been the outcomes?

12. Wyre Council have made a formal request for support through the Local Plan to accommodate some of their housing need and Fylde's response as set out in paragraphs 3.24 – 3.26 of the *Statement of Compliance*, together with the lack of any adjustment to the OAHN planned housing requirement, indicates that the Council do not intend to assist Wyre District.
13. The process of engagement has not been effective. A final position has not been reached that resolves Wyre's unmet housing issue or indicates how this matter might be dealt with. Table A of the *Statement of Compliance* (page 14) confirms this:

“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”.

14. The outcome is that the Fylde Local Plan cannot identify the land and infrastructure required or say with any certainty what the full planned housing requirement for the area is and how this meets the needs within the context of the wider Housing Market Area.
15. There is no proposed monitor and manage approach nor is there a contingency mechanism to adjust housing requirements identified in the Fylde Local Plan. The proposed OAHN and planned requirement does not include any provision for unmet need arising, even as a broad figure that could be more precisely detailed in future as Wyre Council works with Fylde to identify a precise quantum.
16. The outcome is that the Local Plan cannot be said to represent a final, settled position upon which the Council can claim to meet the requirements of paragraphs 47 and 159 of the NPPF. There is a high level of uncertainty with respect to the appropriate future housing target given the unresolved unmet housing needs arising from Wyre District which is within the Fylde Coastal Housing Market Area. There is no mechanism within the Fylde Local Plan that would deal with this unmet need in future. This is a fundamental failing of the draft Local Plan and of Fylde Council to undertake effective co-operation leading to a final position in accordance with NPPF paragraph 181.

c) Is there robust evidence to support the co-operation activities that have taken place?

17. National Planning Practice Guidance (PPG) confirms the importance of identifying actions resulting from the Duty to Co-operate, stating:

“Local planning authorities and other public bodies must work together constructively from the outset of plan preparation to maximise the effectiveness of strategic planning policies. It is unlikely that this could be satisfied by

consultation alone. Local planning authorities that cannot demonstrate that they have complied with the duty will fail the independent examination process”
(ID 9-009)

“Inspectors testing compliance with the duty at examination will assess the outcomes of the cooperation and not just whether local planning authorities have approached others” (ID 9-010).

18. As already highlighted the Fylde Local Plan cannot identify the land and infrastructure required or say with any certainty what the full planned housing requirement for the area is and how this meets the needs within the context of the wider Housing Market Area. The proposed OAHN and planned requirement does not include any provision for unmet need arising. The Local Plan cannot be said to represent a final, settled position upon which the Council can claim to meet the requirements of paragraphs 47 and 159 of the NPPF. This is a fundamental failing of the draft Local Plan and of Fylde Council to undertake effective co-operation leading to a final position in accordance with NPPF paragraph 181.
19. Metacre therefore conclude that the Fylde Local Plan is deficient as its preparation has not complied with S33A of the *Planning and Compulsory Purchase Act* (2004). The Plan fails to accord with the requirements of the *National Planning Policy Framework* at paragraph 181.
20. The Plan as submitted is unlawful and unsound, and the only remedy is that it should be withdrawn and a new Plan prepared in a manner that ensures that Fylde fulfil the requirements of the Duty to Co-Operate.

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?

21. The *Statement of Compliance with the Duty to Co-operate* (August 2016) (**SD007**) provides a helpful summary of the approach and activities that Fylde Council

indicate have been undertaken in order to meet the requirements of the Duty to Co-operate.

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

22. The *Statement of Compliance* confirms at paragraph 3.6 that there is a Memorandum of Understanding (MoU) between the Fylde Coast authorities (Fylde, Wyre, Blackpool and Lancashire County) and that this formalises ongoing dialogue and co-operation on strategic planning matters, including housing.
23. At paragraph 3.22 – 3.26 inclusive, the *Statement of Compliance* deals with Wyre Borough's request of May 2016 to Fylde Council for help in meeting its objectively assessed housing need.
24. Wyre Council's formal request was not resolved, as confirmed in the *Statement of Compliance* in Table A at page 14.
25. Under the 'Impact on Neighbouring Authorities' table heading, the Council concludes that:

"In meeting its own housing requirements figure, Fylde is not able to accommodate any unmet need of neighbouring authorities if such a request is made".
26. The Council's *Response to Inspector's Initial Questions to the Council* (January 2017) (**EL1.001b**) reaffirms this position at page 5.
27. Paragraph 159 of the NPPF establishes that the objectively assessed housing need to be met includes that of the wider Housing Market Area within which the District is located.
28. The NPPF at paragraph 181 expects effective co-operation to meet the requirements of the Duty to Co-operate; i.e. that it secures an outcome:

*“Co-operation should be a continuous process of engagement from initial thinking through to implementation, resulting in a **final position** where plans are in place to provide the land and infrastructure necessary to support current and future levels of development” [our emphasis].*

29. It is clear from their request to Fylde Council that Wyre District anticipates that the Fylde Local Plan will accommodate unmet housing needs arising that they cannot meet in their own authority area. This position has not however been resolved between Fylde and Wyre and there is no definitive, practical arrangement in place across the Housing Market Area, or between the two local authorities to address un-met need. This is expanded upon below.

c) In what way has this influenced the Plan?

30. It is clear from paragraphs 3.24 – 3.26 of the *Statement of Compliance*, and the lack of any adjustment to the OAHN planned housing requirement, that Fylde do not intend to assist Wyre District. The process of engagement has not been effective. A final position has not been reached that resolves Wyre’s unmet housing issue or indicates how this matter might be dealt with. Table A of the *Statement of Compliance* (page 14) confirms this:

“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”.

31. The outcome is that the Fylde Local Plan cannot identify the land and infrastructure required or say with any certainty what the full planned housing requirement for the area is and how this meets the needs within the context of the wider Housing Market Area.
32. There is no proposed monitor and manage approach nor is there a contingency mechanism to adjust housing requirements identified in the Fylde Local Plan. The proposed OAHN and planned requirement does not include any provision for unmet need arising, even as a broad figure that could be more precisely detailed in future as Wyre Council works with Fylde to identify a precise quantum.

33. The outcome is that the Local Plan cannot be said to represent a final, settled position upon which the Council can claim to meet the requirements of paragraphs 47 and 159 of the NPPF. There is a high level of uncertainty with respect to the appropriate future housing target given the unresolved unmet housing needs arising from Wyre District which is within the Fylde Coastal Housing Market Area. There is no mechanism within the Fylde Local Plan that would deal with this unmet need in future. This is a fundamental failing of the draft Local Plan and of Fylde Council to undertake effective co-operation leading to a final position in accordance with NPPF paragraph 181.

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

34. Paragraph 159 of the NPPF establishes that the objectively assessed housing need to be met includes that of the wider Housing Market Area within which the District is located.

35. Blackpool Council have recently adopted their Core Strategy and in paragraph 5.8 it states that the housing requirement figure was realistic having regard to longer term development trends; Blackpool's challenging viability issues; as well as the Borough's physical constraints in terms of a tightly drawn boundary and limited available development land. Fylde also acknowledge in the Local Plan at paragraph 9.11 that "*Blackpool's administrative area is characterised by a tightly constrained boundary*" resulting in Fylde needing to provide 14ha of employment land to meet Blackpool's requirements. Blackpool is therefore unlikely to be able to assist with regards to addressing any unmet housing need within the wider Housing Market Area.

36. Wyre Council have indicated that they are unlikely to meet their share of housing needs in full, which is evident from their request to Fylde for assistance.

37. Of the Fylde Coast authorities Fylde therefore has the greatest capacity to meet the needs of the HMA. If Fylde continue with their approach of adopting a housing requirement figure that disregards employment-led housing growth FOAN

scenarios and provides no assistance to Wyre, there could be significant housing under provision across the Fylde Coast housing market area.

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

38. The NPPF at paragraph 181 expects effective co-operation to meet the requirements of the Duty to Co-operate; i.e. that it secures an outcome:

*“Co-operation should be a continuous process of engagement from initial thinking through to implementation, resulting in a **final position** where plans are in place to provide the land and infrastructure necessary to support current and future levels of development”* [our emphasis].

39. As highlighted there is no mechanism or approach to address unmet housing need in the Fylde Local Plan. The Council’s *Response to Inspector’s Initial Questions to the Council* is clear (page 5) that due to an unspecified unmet housing need, the amount may undermine progress of the Fylde Local Plan and could require a new or redrawn development strategy. The Council suggests that it simply review the request further once detailed and evidenced, which could be considered through a review of the Plan following its adoption.
40. Metacre considers that this is fundamentally flawed and wholly insufficient. The lack of a coherent and comprehensive approach simply leaves the conclusion of the actual housing requirement that the Fylde Local Plan should make provision for to another time after the Plan is adopted. There is therefore no certainty over the level of housing to be provided or what supporting infrastructure may be necessary.
41. It is not a positive planning approach as sought by the NPPF and does not address the deep-rooted unmet housing need issue within the Housing Market Area.
42. Furthermore, Metacre are concerned that contrary to their suggestion Fylde would not undertake a speedy review of the Local Plan to address unmet housing need. Fylde has a history of showing no urgency in updating its Local Plan despite there being a clear need to do so in order to address a significant housing shortfall.

43. The 1996-2006 Fylde Local Plan, which was adopted in May 2003, did not identify any housing allocations and the defined settlement limits were drawn in a restrictive manner, as the strategic housing requirement over the remaining plan period had already been met by existing commitments. The Council subsequently adopted the 2004-2016 Local Plan Alterations Review, which introduced an effective moratorium on new residential development.
44. The advent of the Regional Spatial Strategy for the North West (RSS) changed the position. The RSS identified a higher annual housing requirement for Fylde between 2003-2021, closer to the level prior to the introduction of the Joint Lancashire Structure Plan (JLSP). The JLSP had reduced Fylde's annual housing requirement by 45% compared to the previous Structure Plan.
45. Consequently the adopted Local Plan not only had no housing allocations or strategy in place to deliver the RSS housing requirement, with there being a complete reliance on windfall development, but the defined settlement boundaries had been drawn in a restrictive manner on the basis that new housing was to be strictly regulated.
46. Ever since the publication of the RSS it has been evident that significant edge of settlement greenfield development is required if the Borough's housing needs were to be delivered. This was the clear opinion of the Council's own Planning Policy Team. Indeed in a consultation response, dated August 2009, to an outline application for residential development on greenfield land on the edge of Kirkham/Wesham (application 08/1072 and now proposed allocation HSS8) the Council's policy team advised that:

"...the settlement boundaries in the FBLP were set in circumstances where the development of further greenfield land was not envisaged. As such, having regard to the requirements of Policy L4 of the RSS and the results of the SHLAA, it is for all intents and purposes certain that some significant housing development will be required in Countryside Areas within the period to 2021. For this reason it may be concluded that the settlement boundaries as shown in the FBLP are out of date."
(Appendix 2).

47. This position has also been accepted in numerous s.78 appeals. For example the Inspector considering the recovered appeal for 1,150 dwellings at Queensway (now proposed allocation HSS1) confirmed back in 2012 that:

“It is common ground that planning permissions beyond settlement boundaries will be required if the housing land shortfall is to be addressed in accordance with national guidance” (paragraph IR409 of the recommendation report - Appendix 3).

48. The Council have been acutely aware of the need to update their Local Plan, having publishing a Local Development Scheme in March 2007 suggesting that the production of a Core Strategy would commence in July 2007 and a site Allocations Policies DPD in July 2008 (Appendix 4).

49. The production of this replacement Development Plan has been incredibly slow given this commitment 10 years ago. This is despite having an adopted Local Plan which provides no strategy to deliver housing requirements, which is entirely reliant on windfall developments and has settlement boundaries drawn in a manner to restrict new development. This is also despite a continued failure to deliver the Borough’s annual housing requirement, resulting in a continually rising housing shortfall. Given this history Metacre have no confidence that Fylde will review the Local Plan within a timescale where it would be able to address any unmet housing need.

50. The argument advanced by Fylde Council reflects a common issue affecting many local authorities in their approach to plan-making. However, the NPPF is clear in terms of the need to meet the objectively assessed housing requirements including unmet needs arising.

51. It is Metacre’s conclusion that while there has been co-operation on housing matters through the SHMA process, this has not proved to be effective engagement as significant housing issues remain and there is no certainty when or how these might be resolved. In short, there is no final position reached between the two prescribed authorities.

52. Metacre conclude that:

- the Local Plan should include an upward adjustment to the OAHN planned housing requirement to ensure there is provision now for Wyre's un-met housing need. It is noted that Wyre does not have an explicit figure of unmet need yet, but it is wholly reasonable for the Fylde Local Plan to include a broad additional figure for spatial planning and apportionment purposes which can then be monitored and managed over the plan period accordingly. This approach offers a positive and proactive approach to help meet unmet housing needs and boost significantly the supply of housing; and
 - the Local Plan should additionally include an explicit monitor, manage and contingency review approach for the future.
53. Without this upward adjustment to the OAHN planned requirement and the management mechanisms proposed, the Council's response to Wyre's request is insufficient to allow the draft Local Plan to be considered lawful or soundly based as it is not effective or justified.

Matter 1, Issue 2

Has the Plan been positively prepared in accordance with other legal and procedural requirements?

Question 7

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

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?

54. Metacre consider that the Local Plan's *Strategic Environmental Assessment and Sustainability Appraisal* (August 2016) (**SD004a-c**) is unclear with regards to whether the effects of a higher or lower overall OAHN housing target have been tested.

APPENDIX 1

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Annex Examination of the Coventry Local Development Plan – Core Strategy Preliminary Hearing Session Concerning the Duty to Cooperate

All references thus [xx] in this annex are to documents to be found on the Examination website.

Introduction

1. On the 13 December 2012 an exploratory meeting was held at which I set out my concerns about whether in the preparation of the Coventry Local Development Plan – Core Strategy (the Plan) Coventry City Council (the Council) had discharged its duty to cooperate as required by Section 33A of the Planning and Compulsory Purchase Act 2004 (the 2004 Act). A minute of the meeting has been published [ExM2] as have the Council's comments on these [CCC5].
2. Following this meeting I wrote to the Council on 17 December 2012 confirming my reservations about whether the Council had discharged its duty to cooperate and setting out an agenda for a preliminary hearing session. [IC6]
3. Subsequently on the 1 February 2013 a preliminary hearing session was held to consider this matter further. Specifically the point at issue was whether the Council had engaged constructively, actively and on an ongoing basis with neighbouring local planning authorities on the strategic matter of the number of houses proposed in the Plan and in so doing had maximised the effectiveness of the plan making process?
4. There was no discussion at the preliminary hearing session about the soundness of the Plan. Discussions were limited to whether or not the Plan was lawful – the point being that if it were decided that the Council had not carried out its statutory duty to cooperate then there would be no remedy, the Plan would be unlawful and the Examination would proceed no further.

Background

5. Before considering the duty to cooperate further it is useful to set out the background to the Plan. The situation in Coventry is highly unusual, if not unique, in that the Council has withdrawn a Core Strategy that was found sound in 2010. That withdrawn Core Strategy made provision for some 33,500 dwellings (26,500 of which would have been in Coventry, 3,500 in Nuneaton and Bedworth and 3,500 in Warwick). The Plan, on the other hand, makes provision for 11,373 houses – a significant reduction in housing numbers.
6. The Council confirms that one major reason for this withdrawal was the collapse of the sub-regional agreement which underpinned the previous Core Strategy. This occurred when Nuneaton and Bedworth Borough Council withdrew from its commitment to accommodate 3,500 houses. In the Council's view this left it with an undeliverable plan.
7. A number of representors also point to the change in political control within the Council and the emergence of a clear political mandate that sites within the Green Belt would not be released for housing.
8. It is also relevant to note that the Plan only seeks to make provision for Coventry's own housing requirements while the withdrawn Core Strategy made provision for housing requirements originating in south Warwickshire,

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particularly Warwick and Stratford. It is, however, unclear what role this has played in the reduced housing figures now being proposed.

The Duty to Cooperate

9. In paragraph 3.10 of the Plan the Council acknowledges that it has a duty to cooperate but goes on to state that "...it is not yet clear what, when or how this can be demonstrated..." While this statement has introduced an element of doubt into the minds of representors as to whether the Council understood the requirements of the duty to cooperate, the Council considers it simply acknowledges that this is an area that would benefit from appropriate guidance – a point also made in the Taylor Review.
10. In my view there is little to be gained from undertaking a forensic analysis of this sentence. It is more relevant to assess what the Council actually did in seeking to discharge its duty to cooperate and to consider this in the light of the advice that does exist, most notably in the National Planning Policy Framework (the Framework) paragraphs 178 to 181.
11. The Council's efforts to comply with the duty to cooperate are set out in its *Duty to Cooperate Topic Paper [CS22]* as amplified in its responses to my questions on this matter [CCC1].
12. Broadly speaking the Council has sought to cooperate with local planning authorities in the metropolitan area through its involvement with *The Metropolitan Area's Duty to Cooperate and Finish Group* and to cooperate with local planning authorities in Warwickshire through its membership of *The Coventry, Solihull, Warwickshire Association of Planning Officers*.

Cooperation within the Metropolitan Area

13. *The Metropolitan Area's Duty to Cooperate and Finish Group* produced a document entitled *The Strategic Policy Framework for the West Midlands* but this has nothing direct or specific to say about housing numbers in the Plan. Nonetheless, relatively late in the process of preparing the Plan, one of the members of this group, Birmingham City Council, made representations to the effect that the Council had not met its objectively assessed need for housing or explained how any shortfall would be accommodated. It was concerned that this could have knock on implications for Birmingham and other local planning authorities. This was not a matter on which the Council and Birmingham City Council were able to reach agreement.
14. However, while this sends a signal that cooperation on the matter of housing requirements had not been entirely constructive – a matter I will return to – the nub of the dispute between the two Councils is whether Coventry had taken the 'right' approach to assessing its housing requirements and this is not an issue of lawfulness but rather an issue of soundness.

Cooperation within Warwickshire

15. *The Coventry, Solihull, Warwickshire Association of Planning Officers* has produced a *Draft Statement of Common Ground and Cooperation for the Coventry, Solihull and Warwickshire Sub-Region (SOCG)*. This has been signed by the Chief Executive Officers of the Warwickshire Councils and endorsed by members of the Council and of North Warwickshire District Council. The intention is that it will also be endorsed by the members of other Warwickshire Councils. Solihull Metropolitan Borough Council did not participate in drawing up this statement and will not sign it.

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16. One of the members of this group, Nuneaton and Bedworth Borough Council, has made representations on the Plan questioning whether Coventry is proposing to meet its long term housing requirements and expressing concern over the implications of it not doing so. Once again, however, this is a situation where the nub of the disagreement between the Councils relates to whether Coventry had taken the 'right' approach to assessing its housing requirements and this is a matter of soundness not of lawfulness.
17. However, as with the representations from Birmingham City Council, it does send a message that cooperation in this matter has not been entirely constructive. Indeed Nuneaton and Bedworth are of the opinion that while the SOCG identifies matters of cross boundary interest it does not resolve them.

The SOCG

18. It is necessary, therefore, to look in more detail at what the SOCG says. Under the sub heading '*Level of Housing Provision*' four points are made in this document. Firstly paragraph 4.1 states that although there is no sub-regional Strategic Housing Market Assessment (SHMA) there is broad consistency between the methodologies and assumptions used in individual SHMAs.
19. Secondly, paragraph 4.2 states that the current interpretation of evidence shows that all member authorities are capable of meeting their housing requirements within their borders and there is no requirement for any local authority to meet any part of its housing requirements in another area.
20. Thirdly, paragraph 4.3 states that local planning authorities in the sub-region will continue to plan to accommodate their own needs. This is, I note, different to the situation which prevailed with the previous Core Strategy where Coventry was accommodating housing requirements originating in the south of the County.
21. Fourthly, paragraph 4.3 states that if an authority cannot accommodate its own needs (because an increased housing requirement and because of strong evidence of constraints on the provision of housing sites within its boundaries) then, and only then, would the shortfall be addressed through discussions with neighbouring authorities within and beyond the sub-region.
22. Dealing with these points in reverse order. In my view the mechanism for dealing with any shortfall in housing provision amounts to no more than an agreement to seek to agree in the future. It simply says that, if it arises, a shortfall will be discussed with neighbouring authorities but there is no commitment from those authorities to assist in remedying the shortfall.
23. As to the statement that local planning authorities will continue to plan for their own needs, the significance of this depends to a degree on the consistency of the evidence which demonstrates that they can accommodate their own needs. This in turn, when we are discussing housing, depends to a considerable extent on the robustness of the statement that there is broad consistency between the methodologies and assumptions used in individual SHMAs.
24. The Coventry SHMA [*CSH2*] that will be discussed further below is a comprehensive document which examines a wide range of factors which influence the need and demand for market and affordable housing. It is neither necessary nor appropriate at this time to discuss the content of this document in detail, it is sufficient to note that, as with many such documents, it contains various population projections and the housing figures that emerge depend on the projection selected.
25. In the Coventry SHMA an economic led projection based on a forecast of employment growth derived from the West Midlands Integrated Policy Model

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was selected as providing the most appropriate basis for Coventry's future housing requirements. This projection produced the second lowest population figure of all the alternative projections considered and is presumably the basis for the reference on page 13 of the Coventry SHMA to it '*taking a more cautious approach to future housing provision in the City than indicated by recent population trends...*'.

26. This is not the place to discuss the rights and wrongs of this approach. However, Coventry forms part of a sub-regional housing market area including not only Coventry itself but also Nuneaton & Bedworth Borough Council, Rugby Borough Council and Warwick District Council. It is, therefore, relevant to explore whether the SHMAs relied on by those other councils base their recommended housing figures on the West Midlands Integrated Policy Model.
27. Rugby Borough Council, which has an adopted Core Strategy, did not use this model, its housing figures are derived from 2004/6 household projections. Nuneaton and Bedworth Borough Council is not using this model. It has commissioned a different economic model - how different it is has yet to be established - which will feed into a joint SHMA that it proposes to prepare with Rugby Borough Council and North Warwickshire District Council.
28. Warwick District Council, which now shares Group Manager of Planning and Building Control/Head of Development Services with the Council, prepared a SHMA using the same consultants as the Council. The housing figures which emerged from this were derived from population projections and not from the West Midlands Integrated Policy Model, although that model was the basis for one of the projections in the SHMA. Since then further work has been commissioned in connection with a major planning application proposing up to 14,000 jobs and this work does make use of the West Midlands Integrated Policy Model. Warwick District Council is now looking afresh at the evidence base for its plan with a view to incorporating this evidence.
29. It is not possible from this to conclude with any certainty that there was broad consistency between the methodologies and assumptions used in individual SHMAs when the SOCG was drawn up or that there is now. At best the situation can be described as fluid with one council moving towards taking an approach that is consistent with Coventry's while others are apparently not.
30. This is significant because the lack of broad consistency in the way housing need is being calculated between the various local planning authorities in the Coventry housing market area calls into question the statement that they are all capable of meeting their housing requirements within their borders and that consequently there is no requirement for any local authority to meet any part of its housing requirements in another area.
31. It also makes it difficult to judge whether the full and objectively assessed need for market and affordable housing in the housing market area is being met as paragraph 47 of the Framework makes clear should be done.
32. The Council considers this paragraph to be ambiguous. They ask whether it means Coventry should meet the whole needs of the housing market area, or should it set housing targets for its neighbours or does it mean that it should use the best available evidence to identify the needs for market and affordable housing?
33. To my mind this ambiguity falls away if the need for market and affordable housing has been consistently assessed, for example by way of a joint SHMA. In order to consider the question of a joint SHMA it is necessary to look in more detail at the background to the preparation of the Coventry SHMA.

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Coventry SHMA

34. As has already been established the housing market area for Coventry crosses local authority boundaries.
35. Clearly the Council was aware of the benefits of a joint SHMA because in March 2011 it initiated discussions with neighbouring councils with a view to undertaking just such an exercise. This did not prove possible. North Warwickshire District Council, Rugby Borough Council and Warwick District Council confirmed that they were too far advanced in their work to take part in a joint SHMA. Nuneaton and Bedworth Borough Council did not make a definite response but has subsequently stated that the approach was made to its Housing Department and its Planning Department did not know about the Coventry SHMA until it had been commissioned.
36. Consequently Coventry prepared its own SHMA which, as it acknowledges at paragraph 2.60 of Housing Topic Paper [CS24], does not consider wider housing needs or requirements.
37. It is relevant to note that this approach to neighbouring local planning authorities took place before the duty to cooperate came into force in November 2011 and before the publication of the Framework in March 2012 - paragraph 159 of which specifically states that, where housing market areas cross administrative boundaries, local planning authorities should work with neighbouring authorities in preparing a SHMA to assess their full housing needs.
38. While the Council accepts at paragraph 2.60 of the Housing Topic Paper that the SHMA '*...could be considered to lack some cooperation with Para 159...*', it did not treat the introduction of the duty to cooperate or the publication of the Framework as a prompt to renew its efforts to produce a joint SHMA.
39. The Council is of the view that the use of the word 'should' in paragraph 159 implies that it will not always be possible to produce a joint SHMA. Respondents point out that paragraph 159 also states that local planning authorities 'should' have a clear understanding of housing needs in their area and it would be a nonsense to interpret this as meaning that there may be circumstances in which this is not possible.
40. However, whatever the merits of these arguments, there are a number of reasons why the production of a joint SHMA is particularly important in this instance.
41. Firstly, reference has previously been made to the breakdown in the sub-regional agreement that underpinned the withdrawn Core Strategy. While such a breakdown will not have created particularly fertile ground for cooperation it should, paradoxically, have emphasised the critical importance of effective cooperation in assessing housing needs.
42. Secondly, during the preparation of the SHMA it will also have become apparent that the assessment of housing need that was emerging (11,373 dwellings) was significantly different to that in the withdrawn Core Strategy (33,500 dwellings, 26,500 of which would have been in Coventry, 3,500 in Nuneaton and Bedworth and 3,500 in Warwick) – a Core Strategy which had recently been found sound. Such an abrupt change in approach towards housing provision could, on the face of it, have an effect on neighbouring local planning authorities in the housing market area and is another reason why further consideration should have been given to cooperating with them to ensure a consistent approach to the assessment of housing need.
43. Thirdly, it will also have become apparent during the preparation of the SHMA that the emerging assessment of housing need, unlike those of neighbouring

Coventry City Council Core Strategy DPD Examination

local planning authorities, was well below that of the Phase II Review of Regional Strategy for the West Midlands.

44. Phase II is not, however part of the development plan and there is no reason in principle why its assessments of housing need should not be replaced by more up to date local assessments. They do, however, provide a useful point of comparison which gives some indication that housing needs may not be being assessed in a consistent way across the housing market area. The preparation of a joint SHMA would have avoided such an apparent anomaly.
45. Fourthly, it is also the case that two neighbouring Councils (Birmingham City Council and Nuneaton and Bedworth Borough Council –the latter being in the same housing market area as Coventry) have expressed concern about the Council's apparent under provision of housing and the effects that this would have on them. This is another indication of the merits of producing a joint SHMA in which a common approach to the assessment of housing need would be considered and agreed.

Conclusions

46. The duty to cooperate plays a critical role in the planning process. It is the mechanism for ensuring that, to use the words of paragraph 179 of the Framework, "*...strategic priorities across local boundaries are properly co-ordinated and clearly reflected in individual Local Plans.*" The importance of this role is emphasised by the severity of the sanctions which apply if this duty is not discharged - in other words the Plan would be found unlawful and there would be no remedy for this.
47. In this instance the Council accepts that the level of housing provision is a strategic priority planning issue that crosses local boundaries. However, it has not collaborated with its neighbours to produce a joint SHMA for the housing market area even though paragraph 159 of the Framework says it should and even though there are a number of factors, enumerated above, which point to the desirability of it doing so. It cannot, therefore, be established that the needs of the housing market area have been considered in the round.
48. In seeking to demonstrate that it has complied with the duty to cooperate the Council lays emphasis on the SOCG which it has signed along with neighbouring authorities. However, as far as the Coventry housing market area is concerned, the significance of this SOCG is undermined by the absence of a joint SHMA - a crucial piece of evidence in understanding the housing needs of the area - and uncertainty as to whether individual SHMAs have used broadly consistent methodologies and assumptions.
49. This in turn undermines the statement, insofar as it relates to the Coventry housing market area, that each council can meet its own housing need within its own area. Finally the mechanism for dealing with any shortfall, should one arise, is no more than an agreement to seek to agree in the future.
50. These factors significantly reduce the overall substance of the SOCG in as far as it relates to the Coventry housing market area. I share the view expressed by Nuneaton and Bedworth Borough Council that while the SOCG identifies matters of cross boundary interest it does not resolve them
51. As the Council points out, cooperation is not a one way street and it would have been open to its neighbours to take more of an initiative in cooperating with Coventry. It notes, in particular, that Nuneaton and Bedworth Borough Council has, it considers, declined an invitation to prepare a joint SHMA and then objected on the basis that a joint SHMA has not been prepared.

Coventry City Council Core Strategy DPD Examination

52. But it is the Council and not its neighbours that has submitted its plan for examination and it is the Council not its neighbours that is required to demonstrate that it has discharged its duty to cooperate.
53. It is clear from the evidence that it has not ignored the duty to cooperate and it has actively sought to discharge that duty on an ongoing basis. However, that is not the end of the story. Section 33A of the 2004 Act also requires the Council to engage constructively with its neighbours. The evidence does not show that cooperation between Coventry and its neighbouring councils has been constructive, as required by the 2004 Act, or effective as is expected by paragraph 181 of the Framework.
54. I conclude, therefore, that the Plan does not meet the legal requirements of the 2004 Act in that the Council has not engaged constructively with neighbouring local planning authorities on the strategic matter of the number of houses proposed in the Plan and consequently it has not sought to maximise the effectiveness of the plan making process.



Daniel Hawes
Planning Policy Manager
Hart District Council

Our Ref:

PINS/L2250/429/5

Date:

26 July 2013

Dear Mr Hawes,

Hart District Local Plan (Core Strategy) Examination:

- **Duty to co-operate**
- **Soundness in terms of overall housing provision**

1. Further to the initial hearing sessions held on 9 and 10 July 2013 I set out below my conclusions in respect of the duty to co-operate (Matter 1) and soundness in terms of overall housing provision (Matter 2) and explain the implications for the Examination. Whilst the Council's approach to overall housing provision lies at the heart of my concerns in relation to both matters, I must stress that the legal duty to co-operate is distinct from issues of soundness and accordingly I have dealt with these matters separately.

Background

2. The Council acknowledges that Hart forms part of a wider Housing Market Area (HMA) which also includes Rushmoor and Surrey Heath. It also accepts some links with housing markets in other neighbouring authorities, although these are not as strong. The North West Surrey and North East Hampshire Strategic Housing Market Assessment 2009 (the 2009 SHMA) covered the local authority areas of Hart, Rushmoor and Surrey Heath and identified the demand for affordable and market housing. Significant doubts have been expressed about the relevance of the 2009 SHMA, particularly given the age of evidence underpinning it and the relatively limited timeframe it was intended to cover. The Council itself clearly has substantial doubts as to the methodology employed in the 2009 SHMA and does not consider the assessment of market housing need to be reliable in the context of preparing the Core Strategy.
3. The Council approached both Rushmoor and Surrey Heath Borough Councils with a view to updating the 2009 SHMA. Both authorities declined on the basis that they had recently adopted Core Strategies. The Council proceeded with a SHMA covering Hart only (the 2012 SHMA). The 2012 SHMA updated the evidence relating to Hart on affordable housing need and household projections. It identified a need for an average of 236 dwellings per annum in the District based on the use of a zero net migration model. The Council accepts however that zero net migration is not a true reflection of reality and that this level of provision would not meet full, objectively assessed needs for housing in the District.

4. The 2012 SHMA does not identify the full, objectively assessed needs for housing in the HMA. The Addendum to the 2012 SHMA produced by the Council in June 2013, identifies the Government's household projections for 2011-2021 as a benchmark for objectively assessed housing needs up to 2029 across the three authorities within the HMA and compares this with housing provision in adopted Core Strategies in Rushmoor and Surrey Heath and the proposed provision in the Hart Core Strategy. Rushmoor and Surrey Heath Borough Councils were not involved in the preparation of this Addendum, expressed surprise that it had been produced at such a late stage and considered it inappropriate to simply compare household projections with adopted levels of housing provision. The household projections for 2011-2021 indicate an average of 356 additional households per annum in Hart. The 2008 based projections indicated an average of 444 additional households per annum.
5. Therefore, other than with reference to the Government's household projections as a benchmark, the Council has not clearly identified the full, objectively assessed needs for housing within the District. There is no up to date and reliable SHMA covering the HMA and again other than with reference to the Government's household projections there is no assessment of the full, objectively assessed needs for housing in the HMA.
6. There is no agreement between relevant authorities as to the level of overall housing need within the HMA, how it could be accommodated and how any unmet need from one authority could be met elsewhere.

Duty to co-operate

7. Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended) imposes a duty to co-operate in terms of the preparation of a development plan document as far as it relates to a strategic matter. The duty to co-operate came into effect in November 2011 and the Council does not dispute that it is required to meet it in relation to overall housing provision within the Core Strategy, amongst other strategic matters. The duty to co-operate requires the Council to have engaged constructively, actively and on an ongoing basis.
8. It is also of relevance that the National Planning Policy Framework (NPPF) was published in March 2012, a year before the Core Strategy was submitted for examination. The NPPF clearly sets out the approach that should be taken in terms of identifying and meeting needs for development including housing and emphasises the need for co-operation and collaboration, particularly where housing markets cross administrative boundaries and where local planning authorities may not be able to accommodate development requirements wholly within their own areas.
9. The Council has demonstrated a history of working with other local authorities and organisations. There are examples of a constructive outcome to this joint working, notably the 2009 SHMA, discussions and co-operation on Strategic Housing Land Availability Assessments through the Housing Market Partnership and the production of the Delivery Framework for the Thames Basin Heaths Special Protection Area (TBHSPA). I am also satisfied that the Council has consulted and engaged widely in general terms during the preparation of the Core Strategy.
10. However, turning to the specific issue of overall housing provision, this is clearly a matter of relevance beyond Hart District. As I have set out above, the full, objectively assessed needs for housing have not been properly identified for either Hart District or the wider HMA involving Rushmoor and Surrey Heath. It is difficult to see how constructive and effective discussions on meeting housing needs across boundaries could take place with neighbouring authorities on this basis given that the scale of potential unmet needs was not identified.

11. I acknowledge that the Council sought without success to persuade Rushmoor and Surrey Heath Borough Councils to undertake a joint SHMA update. However, whilst I appreciate the potential implications of carrying out an assessment of the housing market across the wider HMA without input and funding from other authorities, there is no reason in principle why such an exercise could not have been undertaken.
12. Although the Council has engaged generally throughout the preparation of the Core Strategy, it was only relatively late in the process that the specific issue of potentially accommodating unmet housing needs appears to have been raised with other authorities. Indeed it was not until November 2012 (when the Pre-Submission Draft was published for public consultation) that efforts were made to arrange meetings to discuss the issue and the duty to co-operate generally. Meetings did not take place until January and February 2013 and Surrey Heath Borough Council declined the opportunity to meet. It was not until March 2013 that a specific request for information and discussion on housing provision was made to the other authorities forming the TBHSPA Joint Strategic Partnership.
13. By the time the specific issue of potentially accommodating housing needs across local authority boundaries had been raised, the Council had already determined the level of housing it was intending to plan for and published the Pre-Submission Draft of the Core Strategy. Meetings with other local authorities on the specific issue of accommodating housing needs did not take place until just before the Core Strategy was submitted for examination (28 March 2013).
14. The duty to co-operate is not a duty to agree and in terms of a jointly produced SHMA or arrangements for accommodating housing needs across boundaries, the Council is clearly reliant to a large extent on other local authorities. In itself, the absence of a jointly produced up to date SHMA and the lack of an agreement on meeting housing needs would not necessarily be a reason to conclude that the Council had failed to comply with the duty to co-operate. However, it is the actions of the Council in seeking to comply with the duty which are critical to my consideration of the matter. Having failed to persuade Rushmoor and Surrey Heath Borough Councils to work jointly on an update of the SHMA, the Council has not clearly identified the full housing needs of the HMA or even the District (other than using the household projections as a benchmark). It has pursued a strategy that by its own admission would not meet full, objectively assessed needs for housing with no indication as to how or even if, unmet needs could be met elsewhere.
15. The Council only initiated discussion on meeting housing needs very late in the process, after it had already determined the level of housing it was intending to plan for. Discussions only took place a short while before the Core Strategy was submitted for examination. There was little basis for truly effective discussion and co-operation at this stage, particularly given that the scale of potentially unmet need was not actually identified.
16. For these reasons I consider that the Council has not engaged constructively and on an ongoing basis in terms of the preparation of the Core Strategy. It is with regret therefore that I must conclude that the Council has not complied with the duty to co-operate.

Soundness in terms of overall housing provision

17. Notwithstanding the above, I consider it appropriate to also set out my findings in respect of soundness, insofar as it relates to overall housing provision given that I held an initial hearing session on the matter.

18. In order to be considered sound the Core Strategy must be positively prepared, justified, effective and consistent with national policy. The NPPF makes it clear that local plans should be based on adequate, up to date and relevant evidence about the economic, social and environmental characteristics and prospects of the area (Para 158). Specifically in terms of housing, local planning authorities are expected to have a clear understanding of housing needs in their area and to prepare a SHMA to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries. The SHMA should identify the scale and mix of housing needed which meets household and population projections, taking account of migration and demographic change (Para 159).
19. To be positively prepared local plans should be based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet needs from neighbouring authorities where it is reasonable to do and consistent with achieving sustainable development (Para 182). In terms of housing, local planning authorities should use their evidence base to ensure that the local plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies in the NPPF (Para 47). The need for joint working and collaboration where there are cross boundary issues and where development requirements cannot wholly be met within individual local authority areas is emphasised (Paras 178-181).
20. Put simply, for a local plan to be considered sound in terms of overall housing provision it is first of all necessary to have identified the full, objectively assessed needs for housing in the HMA. Having done this it is necessary, working collaboratively and through co-operation with other authorities where appropriate, to seek to meet these needs in full and to demonstrate how they will be met or alternatively to provide robust evidence that they can't.
21. As I have set out above, I consider that the full, objectively assessed needs for housing have not been properly identified for either Hart District or the wider HMA. The Council accepts that the annual average provision of 236 dwellings would not reflect the reality of migration patterns and would not meet the full housing needs of the District (using the household projections as a benchmark). The Council has not sought to meet full housing needs within its own boundaries and there are no arrangements in place with other authorities to accommodate unmet needs from Hart. Again, as set out above, I consider that there has not been effective and constructive co-operation on this matter. The Council's position, as confirmed at the initial hearing sessions, is that the full housing needs will remain unmet.
22. The key question is whether there is sufficient justification for the Council's approach. The Council's case rests largely on the presence of the TBHSPA and the effect that this has on planning for housing development.
23. The Council takes the view that it is unable to plan for a level of housing provision significantly above that set out in the South East Plan (now revoked other than Policy NRM6) as this is the only level of housing which has been subject to a strategic Appropriate Assessment across local authority boundaries. It also points to uncertainty as to the effectiveness of mitigation measures, particularly Suitable Alternative Natural Greenspace (SANG).
24. I do not underestimate the significance of the TBHSPA and the constraints and obligations it places on the Council in terms of preparing the Core Strategy. However, I do not consider that the Council's position in relation to the effect on the overall level of housing that can be planned for is sufficiently justified.

25. The Pre-Submission Draft does not explicitly set out the case that the Council now relies upon. The specific argument that the need for a strategic Appropriate Assessment for housing provision above the South East Plan level rules out a higher figure does not appear to have formed part of the Council's thinking in the early stages of plan preparation.
26. The TBHSPA Delivery Framework and the Council's own Interim Avoidance Strategy acknowledge the principle that subject to the provision of adequate mitigation measures, housing development can be delivered without the likelihood of significant effect on the SPA. Policy CS18 of the submitted Core Strategy includes robust safeguards in respect of the effects of development on the SPA and the requirements for adequate mitigation in the form of SANG and Strategic Access Management and Monitoring (SAMM). Natural England and other local planning authorities take the view that subject to adequate mitigation, the presence of the SPA does not necessarily mean that housing provision should be limited to the level set out in the South East Plan in the absence of an Appropriate Assessment across local authority boundaries. Indeed the adopted Rushmoor Core Strategy plans for a higher level of housing on this basis.
27. Notwithstanding this, I have taken seriously the Council's arguments in terms of a lack of definitive evidence regarding the effectiveness of mitigation measures and the need to apply the precautionary principle in relation to likely significant effect on the SPA. However, the Council's position is inherently flawed. In effect it argues that the only level of overall housing provision that can be justified at this point in time is that set out in the South East Plan. This made provision for a total of 4,400 dwellings in Hart between 2006 and 2026. Taking account of completions to date and the planned provision within the Core Strategy up to 2029, this would result in at least 4,983 dwellings between 2006 and 2029. The total amount of housing would exceed the level set out in the South East Plan by at least 583 dwellings (13%) and potentially more given the approach to additional housing land beyond the site allocations. Therefore the Core Strategy in fact plans for a significantly higher level of housing than that set out in the South East Plan.
28. The Council's Habitat's Regulations Assessment considered this level of housing provision and concluded that adequate mitigation was built into the Core Strategy to avoid a likely significant effect on the SPA and that a full Appropriate Assessment was not required. The principle of housing provision significantly above the overall level set out in the South East Plan has already been established therefore. The Council has not tested other, higher levels of provision in the same way.
29. In terms of soundness therefore the Council has not identified the full, objectively assessed needs for housing in the HMA or indeed the District. It has not sought to meet these needs in full and has not demonstrated how they will be met, either within its own boundaries or elsewhere. In fact its position is that they will remain unmet. There is not a robust justification for this position.
30. In relation to overall housing provision, the Core Strategy has not been positively prepared, it is not justified or effective and it is not consistent with national policy. It is therefore not sound.

Overall conclusions

31. You will appreciate that there is no mechanism to rectify a failure to comply with the duty to co-operate. Accordingly I must recommend non-adoption of the Core Strategy and give reasons for the recommendation.

32. In terms of soundness, there would be a need for a substantial amount of additional work, both in terms of identifying full housing needs and then considering how they could be met. This would require significant cross boundary co-operation with a number of other authorities and is likely to take some considerable time, particularly given the difficult issues that would need to be addressed. There is a significant prospect that modifications required to make the Core Strategy sound would result in a fundamentally different plan to that submitted in terms of its overall strategy and the approach to the amount and distribution of housing. In the light of this, a suspension of the Examination would be inappropriate.
33. Under the circumstances this leaves two options. Firstly the Council could choose to receive my report. Given my findings, I must recommend non-adoption of the Core Strategy. Alternatively the Council may choose to withdraw the Core Strategy under S22 of the Planning and Compulsory Purchase Act 2004 (as amended).
34. I appreciate that you will be disappointed with the contents of this letter but trust that you will understand that I am obliged to apply the legal requirements and soundness test rigorously. I would be grateful if you could confirm the Council's position via the Programme Officer as soon as possible.
35. In the meantime, it would clearly be inappropriate to proceed with the further hearing sessions scheduled to begin on 3 September 2013. Given that the deadline for the submission of statements was to have been 2 August and the Programme Officer is unavailable for much of that time, I would be grateful if the Council could inform relevant parties directly that the further hearing sessions will not be taking place and there is no need to submit statements. The Council's website should also be updated to reflect the situation. A copy of this letter should be placed on the website and made available on request.

Yours sincerely

Kevin Ward
INSPECTOR

APPENDIX 2

Fylde Borough Council
Planning Policy Section

Memorandum

From: Head of Planning (Policy)

To: Andrew Stell

Date: 27th Aug 2009

Application No: 08/1072

Location: Land North of Mowbreck Lane Wesham

Description: Development and redevelopment of the site for up to 264 dwellings together with open space etc.

I write in relation to your memorandum dated 6th January 2009 concerning the above.

I apologise for the delay in replying but we have been working on the SHLAA with a view to providing up-to-date information on the issue of five year supply. This aspect of the SHLAA is now complete (subject to final sign off by the steering group). My comment on the application are as follows and are structured having regard to:

- The policies of the development plan;
- National Policy Guidance particularly with regard to PPS1, PPS3 and PPG 13.
- The five year supply position
- The Fylde Borough Interim Housing Policy.

Statutory Development Plan

The statutory development plan for the area comprises the North West of England Plan: Regional Spatial Strategy to 2021 (RSS) and the saved policies of the Fylde Borough Local Plan (As Altered) (Oct 2005) (FBLP).

Affordable Housing

The Council has commissioned two studies which inform the situation regarding the need for affordable housing in the borough.

A Housing Needs Survey for the borough was undertaken by Fordham Research in 2002 and a report was completed in 2004. This study was updated in January 2008 on the basis of work undertaken in 2007 Fylde Borough Housing Needs and Demand Study.

This study which followed the DCLG guidance identified the need for 568 affordable dwellings per annum, with the majority (93%) of these being social rented and about 7.0% being for intermediate accommodation, providing that these were priced at a 'usefully affordable' level.

The assessed high level of need for affordable housing identified in the Fordham study was endorsed within the Fylde Coast Strategic Housing Market Assessment (published in April 2008) and undertaken by DTZ which independently identified a need of around 600 affordable dwellings per annum.

Evaluation

There is no doubt that the application proposal is contrary to Policy SP2 of the FBLP in that the site is within Countryside. However, it is material to the consideration of the planning application that the settlement boundaries in the FBLP were set in circumstances where the development of further greenfield land was not envisaged. As such, having regard to the requirements of Policy L4 of the RSS and the results of the SHLAA, it is for all intents and purposes certain that some significant housing development will be required in Countryside Areas within the period to 2021.

For this reason it may be concluded that the settlement boundaries as shown in the FBLP are out of date.

Having regard to the policies of the RSS, it is evident that great importance is placed upon achieving housing development on sustainable sites that are accessible to jobs shops and community services and facilities and which will not promote additional trips by private car.

In setting a target of 65% for the use of previously developed land, the RSS contains an assumption that up to 35% of housing development should be made on greenfield land. Work on the SHLAA indicates that green field releases will be necessary.

There is little doubt in my mind that Kirkham/Wesham will be designated as a Key Service Centre in the Council's Core Strategy and that the settlement provides a range of jobs services and facilities. The town is on the rail

network and offers very frequent services to Preston and destinations beyond. The site is on main bus routes. However it is also in close proximity to the M55 motorway and there is no doubt that some additional traffic movements will be generated by the development.

Nevertheless it would be unreasonable to refuse planning permission for all sites close to a motorway junction. The important thing is that residents would have a choice of transport means, including cycling, walking and public transport.

Given the need to make additional housing sites available, the relatively sustainable location of the application site, and the dated nature of the FBLP, it seems to me that, in principle, there is little reason to withhold planning permission.

I reach this conclusion without having regard to the issues of the effect of the development on the local landscape, the ecology of the adjacent BHS, the issue of agricultural land quality, access arrangements and the effect of the development on the local road network etc.

Please advise Mark Sims and Julie Glaister if you require further guidance on this matter. I understand that Julie has provided some information to you independently.

Regards,

Anthony Donnelly

Head Of Planning (Policy)

APPENDIX 3



The Planning
Inspectorate

Report to the Secretary of State for Communities and Local Government

by P J Asquith MA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 21 March 2012

TOWN AND COUNTY PLANNING ACT 1990 (AS AMENDED)

**APPEAL BY KENSINGTON PT PARTNERSHIP
REGARDING THE FAILURE TO DETERMINE AN OUTLINE APPLICATION
FOR PLANNING PERMISSION FOR 1,150 DWELLINGS, A 1.1HA
SCHOOL SITE AND 34HA OF PARKLAND**

at

LAND SOUTH OF QUEENSWAY, ST ANNES , LYTHAM ST ANNES

and

**APPLICATION BY LANCASHIRE COUNTY COUNCIL FOR THE
CONSTRUCTION OF NEW HIGHWAY (COMPLETION OF M55 TO
HEYHOUSES LINK) AND IMPROVEMENT TO EXISTING HIGHWAYS AT
LAND**

at

LYTHAM MOSS, LYTHAM ST ANNES, LANCASHIRE.

Inquiry held on 10-13 and 17 & 19 January 2012
Site visits made on 18 January 2012

Land south of Queensway, St Annes, and Lytham Moss, Lytham St Annes, Lancashire

File Refs: APP/M2325/A/09/2103453 & APP/Q2371/V/11/2157314

Queensway; development plan policy

407. At the time of the Inquiry the development plan remained the same as when the previous Inspector considered the Queensway scheme in late 2009/early 2010, namely the North West of England Plan Regional Spatial Strategy to 2021 (the RSS) and the saved policies of the Fylde Borough Local Plan 2005 (as altered) (the LP). In terms of the latter, there is no dispute that the appeal site is not allocated for development and lies outside the defined settlement boundary for St Annes. It is within an area defined as countryside where development is restricted in accordance with Policy SP2 and the proposal does not fall within any of the limited categories of development that Policy SP2 allows. Conflict with Policy SP2 is not disputed. However, the LP was not produced in the context of the RSS; it was adopted as being in general conformity with the former Joint Lancashire Structure Plan (JLSP). That plan set an annual housing requirement for Fylde Borough of 155 dwellings. The LP makes clear that the whole of the JLSP requirement was accounted for by commitments and that there was already a significant potential over-supply of housing land. The defined settlement limits within the LP were clearly drawn in a restrictive manner on the basis of the strategic housing requirement for the Borough having been met and therefore new housing was to be strictly regulated. [21, 40, 79, 257]
408. The advent of the RSS changed the position. RSS Policy L4 requires Fylde Borough to provide for 306 new dwellings per annum between 2003 and 2021. When set against this requirement it is an agreed position between the Appellant (KPT) and Fylde Borough Council (FBC) that there is currently only a 1.4 year supply of housing land, a slight worsening of the position since late 2009 when the agreed supply was 1.5 years²⁹². I have no doubt that the Appellant's claim that some 350 units could be delivered within the five years would make a significant contribution when set against the Strategic Housing Land Availability Assessment (SHLAA) identified deliverable quantum of only 326 (whether or not conversions and windfalls are allowed for). [20, 41, 57, 61, 249]
409. The Council is not in a position currently to be able to facilitate accordance with RSS Policy L4 in terms of allocation of land. There is acceptance that on the basis of any reasonably foreseeable locally-derived housing target the Council is not able to demonstrate a five-year supply. The SHLAA indicates, and the Council accepts, that to provide more housing there will be a need for the use of greenfield land. It is common ground that planning permissions beyond settlement boundaries will be required if the housing land shortfall is to be addressed in accordance with national guidance. [47, 72, 210, 212, 214]
410. The Appellant's challenge to the Secretary of State's decision following the previous Inquiry was conceded on the basis of the determination of weight to be given to the RSS Policy L4 requirement for Fylde Borough to provide 306

²⁹² There is a difference of opinion within the evidence as to the actual quantum of deliverable housings units identified in the SHLAA, published in September 2011, for the period 2011-2016. KPT refers to a figure of 326 units whilst FBC refers to 536 units, the latter making an allowance for windfalls on small sites and for conversions and which KPT disputes. Whichever figure is used, it does not alter the agreed position that there is only a 1.4 year supply of housing. [57, 251]

APPENDIX 4



FYLDE BOROUGH COUNCIL



Local Development Scheme

March 2007

Local Development Documents Profiles

Core Strategy

Document Details	
<u>Title:</u>	Core Strategy
<u>Role:</u>	<p>To set out the key elements of the planning framework for the borough.</p> <p>To set out the long term spatial vision for the borough held by the Council and the community as expressed by the Local Strategic Partnership in the Community Plan.</p> <p>To represent strategic guidance for the other Local Development Documents of the Local Development Framework. It will be in general conformity with the Regional Spatial Strategy and will take account of other relevant plans and strategies, including the Community Plan.</p>
<u>Content:</u>	<p>The provision of a spatial vision and strategic objectives for the area; a spatial strategy; core policies which will deliver the vision and provide strategic guidance to other Local Development Documents and a monitoring and implementation framework.</p> <p>Core policies will include the general location for strategic development; key transportation proposals and the main strategic constraints to development.</p> <p>Some generic criteria based development control policies may be included in the Core Strategy depending on the response of the Secretary of State to the Council's application to save such policies currently within the Fylde Borough Local Plan.</p> <p>A key diagram which will illustrate in diagrammatic form, the broad strategy for the area.</p> <p>A proposals map will be included if necessary to illustrate the areas to which core strategy polices will apply e.g. green belt.</p>
<u>Status:</u>	Development Plan Document.

<u>Chain of Conformity:</u>	Will be in general conformity with national planning policy and the Regional Spatial Strategy. It will have regard to the vision, objectives and direction of the Community Strategy.
Geographic Coverage	The whole of the Borough of Fylde.
Timetable	
Commencement Scope sustainability appraisal.	July 2007
Consultation on Issues and Options (Regulation 25)	Feb - Mar 2008
Public participation on preferred options (Regulation 26) Formal Sustainability Appraisal Report on preferred options	Sept - Oct 2008
Submission of DPD to Secretary of State (Regulation 28)	May - June 2009
Pre-examination meeting	Oct 2009
Commencement of Examination	Dec 2009
Receipt of Inspector's Report	May 2010
Adoption	July 2010
Arrangements for Production	
Section to lead production.	Planning Policy Section of Fylde Borough Council

Local Development Document Profiles

Site Allocation Policies DPD

Document Details	
<u>Title:</u>	Site Allocation Policies DPD
<u>Role:</u>	To deliver the broader objectives and vision contained in the Core Strategy in respect of all site allocations and land designations taking into account the Regional Spatial Strategy.
<u>Content:</u>	Will indicate policies for the allocation of land for housing, employment, and other purposes.
<u>Status:</u>	Development Plan Document
<u>Chain of Conformity:</u>	Will be in general conformity with national planning policy and the Regional Spatial Strategy. It will have regard to the Community Plan.
Geographic Coverage	The whole of the Borough of Fylde.
Timetable	
Commencement Scope sustainability appraisal.	July 2009
Consultation on Issues and Options (Regulation 25)	Feb - March 2010
Public participation on preferred options (Regulation 26) Formal Sustainability Report on preferred options	Sept - Oct 2010

Submission of DPD to Secretary of State. (Regulation 28)	May - June 2011
Pre-examination meeting	October 2011
Commencement of Examination	December 2011
Receipt of Inspector's Report	May 2012
Adoption	July 2012
Arrangements for Production	
Section to lead production.	Planning Policy Section of Fylde Borough Council
Management Arrangements	Management of the DPD will be undertaken by the Planning Policy Manager.
Resources	Resources to be taken from existing Council budgets, including Planning Delivery Grant.
Monitoring and Review	The DPD will identify the need to monitor planning applications which have implications for the policies contained within it to determine the effectiveness of policies. Where land allocations have been made, the rate of take-up of the allocations will be monitored.

Appendix 5

Local Development Document Profiles

Proposals Map