



The Planning Inspectorate

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# **Report to Fylde Borough Council**

**by Katie McDonald MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Date: 27 October 2020**

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## **Report on the Council's Annual Position Statement**

The Statement was submitted to the Planning Inspectorate on 31 July 2020

## **RECOMMENDATION to the COUNCIL**

1. The Fylde Borough Council Draft Annual Position Statement July 2020 is confirmed, subject to the following:
2. The 5-year housing requirement is 2,635 dwellings or 527 dwellings per annum.
3. The 5-year supply is reduced by 99 dwellings comprising:
  - Site HS61 Land at Roseacre, Wildings Lane, St Annes – remove 45 units.
  - Site HSS5 Cropper Road West, Bamber's Lane – remove 24 units.
  - Former Wesham Park Hospital, Derby Road, Wesham – remove 30 units.

## **Context to the Recommendation**

4. Paragraph 74 of the National Planning Policy Framework (the Framework) introduced an Annual Position Statement (APS). The Housing Supply and Delivery section of the Planning Practice Guidance (PPG) (September 2018, updated in July 2019), sets out the process that local planning authorities (LPAs) should follow if they wish to confirm their housing land supply (HLS) through an APS. Paragraph 011<sup>1</sup> of the PPG indicates that plans that are recently adopted, including those adopted under the 2012 Framework, can benefit from confirming their 5-year HLS through an APS. The Council advised the Planning Inspectorate of its intention to do so by 1 April 2020.
5. The PPG says that when assessing an APS, the Planning Inspectorate will carry out a 2-stage assessment – whether the correct process has been followed and the sufficiency of the evidence submitted. I have assessed only the evidence submitted by the Council.

## **Stage 1**

### **Does the Council have a recently adopted plan?**

6. For the purposes of paragraph 74 of the Framework, the Fylde Borough Council APS 2019 was confirmed by the Secretary of State in May 2020. The authority is seeking to renew the confirmed land supply following its earlier confirmed APS. Bullet point one from paragraph 13<sup>2</sup> of the PPG is met.

### **Has satisfactory stakeholder engagement been carried out?**

7. The PPG<sup>3</sup> identifies what engagement a Council will need to undertake and who the Council can engage with. Developers of all sites of over 100 dwellings were contacted at the pre-draft stage of the consultation. Developers of sites of under 100 dwellings were not directly contacted as the Council did not

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<sup>1</sup> Reference ID: 68-011-20190722

<sup>2</sup> Reference ID: 68-013-20190722

<sup>3</sup> References IDs: 68-015-20190722 & 68-016-20190722.

consider it useful in relation to the overall calculation. Following this, direct consultation with 300 stakeholders was carried out on the draft APS along with other forms of publication, such as the Council website. The consultation period was for 3 weeks, which is shorter than normally expected. This was largely due to the COVID-19 pandemic and the 4-month time scale in which the draft APS is required to be submitted to the Planning Inspectorate being largely during the period of 'lockdown'. Nevertheless, this time period did not appear to inhibit response rates.

8. Respondents advocate additional engagement in the formulation of the draft APS. However, based on the above methods, extent of engagement and response rates, satisfactory stakeholder engagement has been carried out, in line with the guidance in the PPG. Furthermore, an appropriate schedule of response data has been produced and submitted, including in relation to remaining disputed sites with the Council's comments added in each case. The Council has also provided a schedule of, and its comments on, general responses concerning the nature of the draft APS process and general deliverability matters.

## **Stage 2**

### **Is the evidence submitted sufficient to demonstrate a 5-year supply of deliverable housing sites?**

#### ***Requirement***

9. The Fylde Local Plan to 2032 (LP) was adopted in October 2018, so is less than 5 years old. Thus, the Council's HLS is to be assessed against the housing requirement contained in its strategic policies<sup>4</sup>. The 5-year HLS requirement applies an appropriate buffer to produce a requirement over and above the level indicated by the strategic policy.
10. The Council is undergoing a LP review and consultation ended early September. However, for the purposes of this draft APS, the LP contains the most appropriate figure relating to the housing requirement.
11. LP Policy H1 sets a minimum housing requirement of 415 (net) dwellings per annum (dpa). However, shortfall is calculated from the base date of the LP and the annual requirement figure of 415 is rebased in the LP to include shortfall from early in the plan period, before the examination took place. The LP spreads the shortfall over the remainder of the plan period, using the Liverpool Method, resulting in a residual requirement from 1st April 2017 of 479 dpa or 2,395 dwellings over 5-years.
12. The Council's continued use of the Liverpool Approach is disputed. PPG<sup>5</sup>, when considering how past shortfalls in housing completions against planned requirements should be addressed, indicates that any shortfall should be added to the requirement for the next 5 years (Sedgefield Approach) then the appropriate buffer added. However, the guidance continues to say that if: "*... a strategic policy-making authority wishes to deal with past under delivery*

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<sup>4</sup> Framework paragraph 73.

<sup>5</sup> Reference ID: 68-31-201990722

*over a longer period, then a case may be made as part of the plan-making and examination process rather than on a case by case basis on appeal."*

That is the process followed in this case and the LP incorporates the Liverpool Approach to dealing with past shortfall. Therefore, the starting point is the figure of 479 dpa, taken from the LP, and this is the basis on which the draft APS must be considered.

13. The Council had a surplus of 150 homes delivered over the last 3 years (April 2017-March 2020). As a result, it has reduced the 5-year requirement to 2,245 by subtracting the surplus. Adding a 10%<sup>6</sup> buffer (because the Housing Delivery Test does not indicate a higher buffer) of 225 dwellings, the 5-year housing requirement calculated by the Council is 2,470 dwellings or 494 dpa.
14. The Council's approach to dealing with the additional supply is disputed, with stakeholders claiming that because the Council has used the Liverpool Approach to deal with the shortfall, any surplus should similarly be spread over the remaining plan period. The Council argue that the additional supply should be offset against the total residual requirement for the 5 years of 2,395, which incorporates previous shortfalls. The Council indicate that their approach to incorporating additional supply follows PPG paragraph 32<sup>7</sup>. This states that *"where areas deliver more completions than required, the additional supply can be used to offset any shortfalls against requirements from previous years"*. However, paragraph 73 of the Framework states *"LPAs should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies"*. Therefore, the Framework makes no allowance for subtracting additional supply. Moreover, whilst the PPG enables LPAs to take additional supply into account, there is no requirement to do so.
15. In my view, the PPG is not clear how additional supply could be used to offset shortfalls against requirements from previous years. However, what is clear is that a shortfall against requirements from previous years would be necessary, in order to take account of any additional supply. The requirement from previous years, being those since the development plan was adopted, is 479 dpa. This figure takes account of previous shortfall and was agreed as part of the plan making process in adopting the Council's strategic policies. In the 3 years since adoption, there has been an overall surplus of 150 dwellings. Therefore, there is no shortfall against requirements from previous years which could conceivably be offset.
16. Consequently, the additional supply should not be considered. The annual requirement remains at 479 dpa as set out in the adopted strategic policies. Adding the 10% buffer would bring the 5-year housing requirement for the purposes of the draft APS to 2,635 dwellings or 527 dpa.

## **Supply**

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<sup>6</sup> Framework paragraph 73.

<sup>7</sup> Reference ID: 68-032-20190722

17. In the draft APS, the supply comprises: deliverable sites (2,727) and allowances for windfalls (80), and a demolitions allowance (-5). Having regard to the Framework definition of deliverable sites, it is unnecessary to include an allowance for the non-implementation of small sites. Taken together, these components amount to a 5-year supply of 2,802 dwellings.

#### *Housing Sites in Dispute*

18. Twenty sites are disputed, where engagement comments claim that the site should either be removed from the supply as undeliverable or that the contribution to the supply should be adjusted. I have considered the deliverability of these sites below, having regard to the glossary entry in the Framework relating to the term 'deliverable' and recent case law<sup>8</sup>.

#### *Site HSS1 Queensway, St Annes*

19. Owned by a single developer, this site has full planning permission for 948 dwellings and is an active construction site. The trajectory was reduced in the 2019 APS and this is reflected in the draft APS, adjusted to reflect delivery in 2019/20 and account for the impact of COVID-19 shutdown.
20. The dispute relates to a slowdown of delivery on site and its impact upon the link road. However, conditions discharge has been submitted for the larger part of the scheme; and the developer has secured planning permission for the main highway junction to provide access to the larger phase of the scheme. I also see little evidence of a continuing slowdown given delivery in 2019/20 was 40 units. Therefore, there is no justifiable reason to amend the Council's realistic trajectory for this site.

#### *Site HS2 Jubilee House, Lytham*

21. LP allocated site for 20 apartments and remodelling of existing office block. Whilst the office element has been implemented, the apartments have not; with a third-party respondent detailing that they believe the residential component is on hold until funding can be secured and there are issues with car parking capacity. Whilst this may be the case, the site has full and extant planning permission that could proceed at any point; and the details presented do not amount to clear evidence that homes will not be delivered within 5 years.

#### *Site HS11 The Galleries, 2-4 Kingsway, Lytham*

22. LP allocated site for 9 dwellings. Full planning permission granted February 2019, following a previous full planning permission. The site has been marketed for a lengthy period, yet a sale could be achieved at any point and continued marketing displays an intention to sell the site for the development. Therefore, there is no clear evidence that this site would not be delivered in 5 years, particularly given its small scale.

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<sup>8</sup> East Northamptonshire Council v Secretary of State for Housing, Communities and Local Government case number CO/917/2020 – Consent Order sealed 12 May 2020



*Site HS14 AXA, Lytham*

23. LP allocated site. Full planning permission granted March 2018 for 65 specialised apartments for the elderly. Condition discharge applications received and granted, and the site has been cleared in preparation. The respondent outlines that the proposal would be a residential institution and a discount should be applied.
24. Each apartment is self-contained, having separate living accommodation and dedicated kitchen and bathrooms, with the majority offering 2 or 3 bedrooms. This would not be a residential institution and operates as independent living facility with supplementary care. Thus, the units proposed should be counted as individual dwellings for the purposes of the trajectory.

*Site HS60 Valentine Kennels, Wildings Lane, St Annes*

25. LP allocated site. Resolved to grant full planning permission at Planning Committee in January 2020 (subject to a planning obligation) for a C2 care village with 205 bedrooms, equivalent to 114 dwellings. Based on the information before me, the planning permission has not yet been issued owing to delays in finalising the planning obligation, yet a draft has been produced and the terms agreed. The Council indicate it was expected to complete the agreement in August 2020.
26. Firm progress has been made towards progressing this site by the submission of such a large-scale detailed application and its allocation in the LP. Matters of restrictive covenants are also raised by the respondents, yet I agree with the Council that it assumes due diligence would be undertaken by the applicants prior to submitting a planning application of this scale; and that a solution would be possible. Therefore, there is a reasonable prospect of the site being delivered in year 4 of the trajectory and its inclusion is appropriate.

*Site HS61 Land at Roseacre, Wildings Lane, St Annes*

27. LP allocated site. The full planning permission for 45 units expired in November 2019. The Council maintains delivery will take place, as the sale of the land is being actively pursued but move the delivery back to years 3 and 4. The Council details that a new planning application would be considered a relatively straightforward matter.
28. However, despite these intentions, there is no evidence of firm progress being made towards the submission of an application from a new developer nor recent site assessment work. Furthermore, the potential purchaser may not wish to develop the expired scheme, such that a new planning application may not be a 'relatively straightforward matter'. Consequently, there is no clear evidence that housing completions will begin on site within 5 years, and 45 dwellings should be removed from the 5-year supply.

*Hole in One, Forest Drive, Lytham St Annes*

29. Windfall site for 27 units. Resolved to grant full planning permission at Planning Committee in December 2019 (subject to a planning obligation). Concerns are raised over the terms and time it is taking to agree the planning

obligation, and the viability of the site. The Council detail a viability appraisal has been submitted and it is working with the applicant to resolve matters. The Council is also keen to see the site brought forward given it is a vacant, previously developed site in a residential area.

30. Although the site does not have full planning permission, firm progress has been made by the submission of the application, the resolution to grant permission and the ongoing discussions with the applicant around the matter of viability. The time taken to formalise the agreement is longer than normal, however, these are not normal times, and the Council appear willing to seek a resolution. As such, there is a clear and reasonable prospect that housing completions will begin on site within 5 years.

*Site MUS2 Whyndyke Farm*

31. A large site for 1,310 dwellings. Outline planning permission was granted in June 2018. Thirty dwellings have been included in the 5-year trajectory in the final year, 2024/2025. The 2019 APS removed 30 dwellings from the last year of the trajectory, however since then an application to vary the terms of the conditions has been submitted relating to highway works required in the first phase. This represents a change to the previous APS whereby firm progress has now been made towards the submission of reserved matters and there is a clear intention to ensure the first phase can be brought forward. Therefore, the inclusion of 30 units in the final year of the trajectory is reasonable.

*Site HSS5 Cropper Road West, Whitehills (site 1) and Cropper Road West, (Bamber's Lane), Whitehills (site 2)*

32. The site comprises 2 parcels allocated in the LP. The first has an outline planning application submitted for up to 350 units and the second, a full planning application has been submitted for 99 units. The trajectory shows a delivery of 25 units in year 4 and 30 units in year 5 for site 1 and 15 units in year 2, 30 in years 3 and 4 and 24 units in year 5 for site 2. The Council has delayed the delivery of site 1 by one year, to accord with the end of delivery on a neighbouring site.
33. The Environment Agency (EA) has issued a holding objection to the development of both sites following a reassessment of the flood risk. The applicants are responding to the EA and the Council consider the issues are technical and capable of resolution with a revised masterplan being submitted in May and the latest hydraulic model being submitted in July. However, this objection is over one year old and based on the details before me, remains in place. The developer responses for site 1 point out that even if there is a resolution it may impact on the developable area and the number of dwellings that could be accommodated.
34. Given the time it is taking to resolve the issue, inclusion at the scale anticipated in the 5-year supply is overly optimistic for site 2 which anticipates 15 units in year 2. Still, the proposals are developer led and there is a willingness to develop the sites once the EA objection is resolved. I also see no reason to believe that the EA objection is incapable of being resolved, so it would be inappropriate to wholly remove the sites from the 5-year supply.



35. Consequently, delaying the delivery by one year would be a realistic approach. The Council has already delayed delivery of site 1 by one year for other reasons and so there would be no change here. For site 2, moving back delivery would remove the projections for year 5, such that 24 dwellings should be removed from the supply, with delivery beginning in year 3.

*Site HSS12 Land North of Freckleton Bypass, Warton*

36. Outline planning permission granted for up to 350 dwellings. A reserved matters application for 350 dwellings has been submitted in January, but there remain significant outstanding concerns as detailed by the developer's response, and if withdrawn the outline planning permission would have expired. The developer suggests removing the site from the 5-year supply, but states if reserved matters are approved, only 10 dwellings would be delivered in 2021/22. The Council has adjusted the initial trajectory to reflect this and see no indications of the reserved matters application being withdrawn, rather that it is working with the applicant towards an acceptable scheme.
37. Although there remain outstanding concerns with the reserved matters application, firm progress has been made by its submission and pending consideration. Indeed, the developer gives an indication of the trajectory for delivery should the application not be withdrawn. On balance, and given the outline permission would have expired if the reserved matters is withdrawn, it would be reasonable to conclude that the parties will seek to find an acceptable solution; and as such, there is a realistic prospect of the site delivering houses at the anticipated scale.

*Site HSS13 Clifton House Farm, Lytham Road, Warton*

38. LP allocated site, with both outline planning permission and reserved matters granted for 96 dwellings. The applicant is not a housebuilder and the site would need to be marketed, sold and potential variations to the consent for house type changes etc. Additionally, off site highway works are required and would need to be in place prior to the site delivering dwellings. Nonetheless, these are not unusual circumstances.
39. The submission of an additional reserved matters application has little bearing upon the fact that the site benefits from full planning permission. The trajectory is reasonable, based upon the site owner's representative's delivery rates. Thus, no clear evidence has been presented that homes will not be delivered within 5 years, and its inclusion in the supply is realistic.

*Brook Mount, 4 Lytham Road, Warton*

40. Windfall site for 26 units, previously developed land within a settlement, and identified on the brownfield land register. Resolved to grant full planning permission at Planning Committee in June 2020 (subject to a planning obligation).
41. Although the site does not have full planning permission, firm progress has been made by the submission of the application and the resolution to grant

permission. The planning obligation is straightforward and there is a reasonable prospect that housing completions will begin on site within 5 years.

*Site HSS9 Land North of Blackpool Road, Kirkham (phase 3)*

42. LP allocated site, and the final phase of a larger development. Full planning permission granted July 2018 for 231 units, and an application to discharge conditions has been received.
43. The third-party respondent indicates that delivery should be adjusted to account for the effect of the COVID-19 lockdown period. The Council has adjusted several sites which have already commenced, removing dwellings from year 1 and adding them to the end of the delivery period. On this site, it has not done so. However, only 15 dwellings are predicted in year 1, as opposed to 30 each in the remaining 4 years trajectory. Given this, and that it is in a final phase, no dwellings would have been anticipated for completion in the 3-month period which the Council has discounted for lockdown and the rate of delivery predicted is reasonable.

*Former Wesham Park Hospital, Derby Road, Wesham*

44. Outline planning application for 51 dwellings on a previously developed site. The Council's Planning Committee resolved to grant outline permission in March 2020 subject to a planning obligation. The Council detail that in June 2020, NHS Property Services announced that demolition would commence the same month. The sale of the site is necessary to release funds for a new primary care facility.
45. The Council has moved back site delivery by 12 months in response to draft APS engagement with delivery of 15 units in year 4 and 30 in year 5. However, the outline permission has not yet been issued, there is seemingly no progress towards the submission of a reserved matters application and no apparent developer on board. Thus, although progression towards demolition of the existing buildings has taken place, this is not clear evidence that dwellings will be delivered on site within 4 years. On the other hand, there is an intention to sell the site to release funds and therefore, it is not unreasonable to assume that some dwellings could be delivered in 5 years.
46. On balance, it is recommended to move delivery back a further year, removing 30 dwellings from year 5 of the trajectory.

*197 Kirkham Road, Freckleton*

47. Full planning permission granted for 7 dwellings. There is no clear evidence that homes will not be delivered within 5 years and the site's inclusion in the supply is acceptable.

*Site HS73 Land North of Beech Road, Elswick*

48. LP allocated site, with full planning permission granted in November 2017. Variation application received in February 2020 by a new developer. The site owner's agent has indicated the delivery projections with construction

beginning early 2021. Whilst a third-party representor questions the projected timescales, even if this was put back one year, delivery would still take place within the 5-year trajectory.

*Site HS47 Land North of North View Farm, Wrea Green*

49. LP allocated site. Resolution to grant full planning permission for 21 dwellings given by Planning and Highway's Committee in February 2020, subject to a planning obligation.
50. Although the site does not have full planning permission, firm progress has been made by the submission of the application and the resolution to grant permission. Thus, there is a reasonable prospect that housing completions will begin on site within 5 years.

*Site HS52 Cobweb Barn, Oak Lane, Newton*

51. LP allocated site, with a full planning application submitted for 100% affordable housing. Whilst permission may not have been yet granted, the site is allocated and given the submission of the planning application, firm progress has been made to reasonably indicate that delivery of dwellings would take place in the next 5 years.

*Merlewood Country Park, Cartford Lane, Little Eccleston*

52. A windfall site with full planning permission for use of the land for 82 residential caravans. Whilst the respondents suggest delivery should be pushed back from year 1, there is no clear evidence that delivery of the units would not take place within the 5-year supply period.

*Conclusion on the Disputed Sites*

53. Clear evidence has not been produced to support the inclusion of 99 dwellings within the 5-year supply.

*Windfalls*

54. The allowance for years 4 and 5 is based on a finding by the LP Examining Inspector that 40 dwellings per annum in years 4 and 5 was justified by the evidence. This was also supported by the 2019 APS Inspector. Windfall development generally relates to small sites that unexpectedly become available. Therefore, from year to year their contribution cannot be reliably anticipated. However, having regard to the levels of windfalls permitted in each of the years from 2014 to 2020, the inclusion of 80 dwellings is reasonable.

*Small Scale Sites – Non-Implementation*

55. The Council do not include any discount for non-implementation of small sites. The Framework details that sites which do not involve major development and have planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within 5 years. For these sites that are not in the disputed list above, no clear

evidence has been presented that they would not be implemented and thus the approach taken by the Council is appropriate.

### *COVID-19 Impact*

56. There can be little doubt that the effect of the COVID-19 lockdown period would have had some form of effect upon delivery from March this year. The Council invited comments from individual site developers, and adjusted delivery rates based upon responses. It also assumed a 3-month delay to sites already commenced, adding the dwellings to the end of the delivery period. Whilst some respondents advocate a longer loss of delivery, and in one case a 10-20% reduction overall; most sites were shut down for around 2 months and a 3-month delay in delivery is proportionate and reasonable.
57. In terms of the overall impact of COVID-19 on the housing market, it is simply too early to tell, and a revision to housing delivery per se for this reason would be unfounded.

### *Conclusion on deliverable housing supply*

58. Based on the above findings, 99 dwellings should be removed from the total 5-year HLS reducing it to 2,703 units against a requirement of 2,635 and reducing the supply in years to 5.13. In respect of individual sites where the supply has been found to differ from the Council's figures, these are summarised as follows:

- Site HS61 Land at Roseacre, Wildings Lane, St Annes – remove 45 units;
- Site HSS5 Cropper Road West, Bamber's Lane – remove 24 units;
- Former Wesham Park Hospital, Derby Road, Wesham – remove 30 units;

### **Conclusions**

59. This draft APS seeks to renew the confirmed land supply following the Fylde Borough Council APS 2019.
60. Satisfactory stakeholder engagement has been undertaken.
61. The 5-year housing requirement is 2,635.
62. The 5-year total supply calculated by the Council should be reduced by 99 dwellings to 2,703.
63. The Council can demonstrate a 5.13-year housing land supply. Consequently, even if I had taken account of the additional supply, it would only serve to confirm a greater supply position.

*Katie McDonald*

INSPECTOR