

**Fylde Local Plan Partial
Review Examination
Matter 1
Compliance with
statutory procedures
and legal matters
Hearing Statement**

1.0 INTRODUCTION

- 1.1 Cassidy + Ashton are retained by Home Farm Ltd [HF].
- 1.2 In respect to the Local Plan Review, HF are promoting the allocation of additional land at Lytham St Annes, the Key Service Centre within the Borough.
- 1.3 The format of this statement follows the Inspector's own Matters Issues and Questions dated 29th January 2021.

2.0 INSPECTOR'S QUESTIONS

Issue 1a – 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

Q1. Has the Council engaged constructively, actively and on an on-going basis in the preparation of the Partial Review, in the context of relevant strategic matters, including meeting any unmet needs from neighbouring authorities? Does the evidence clearly demonstrate the nature of any cooperation activities and the outcomes that have been achieved?

- 2.1 HF accepts that Fylde forms part of the wider Fylde Coast Housing Market Area (Fylde Coast HMA), alongside two other local authorities, Blackpool and Wyre. There are relationships with other local authorities but it is not considered that these are significant in terms of the development of local plan policy.
- 2.2 The undertaking of the Local Plan Review remains under the auspices of the NPPF which clearly states:
- “24. Local planning authorities and county councils (in two-tier areas) are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries.”*
- 2.3 In respect to co-operation, the Council has engaged with a number of local authorities including Preston, South Ribble and West Lancashire, although the interaction of the respective housing markets, particularly in respect to the latter is limited.
- 2.4 Given the identified Fylde Coast HMA, the interaction and level of co-operation with Blackpool and Wyre is of more significance. Accordingly, substantial co-operation between Fylde, Wyre and Blackpool is to be expected. Indeed, the Housing Topic Paper issued by Blackpool Council this week in support of the Blackpool Local Plan Part 2 shows how this has previously been agreed in respect to Employment Land, stating:
- “4.9 Existing employment sites and allocations have been considered in terms of their potential for re-use for housing. However, the Core Strategy identified a shortfall in employment land supply in Blackpool. Fylde Council agreed to provide for this shortfall under the Duty to Cooperate process. Therefore, the limited supply of alternative employment land was taken into account when considering the potential of re-using any allocated employment land for housing in Blackpool.”*
- 2.5 In contrast the level of co-operation evidenced by Fylde in respect to other Strategic matters, such as housing, would appear to be somewhat limited. The Fylde Council, Wyre Council, Blackpool Council Statement of Common Ground Plan-Making for Strategic Cross-Boundary Matters, dated October 2020, states that the Fylde Coast Authorities officers and members Duty to Co-operate meetings are effective mechanisms for ensuring that strategic planning issues that cross council administrative boundaries between the Fylde Coast Authorities are given due consideration, are planned for and are delivered effectively through the plan making process. However, there is no evidence presented in the Statement of Common Ground that there has actually been any attempt to actually provide for the unmet need.

2.6 Indeed. Although the Statement of Common Ground sets out the timetable for the Fylde Local Plan Review and identifies the commitment to examining the issue of Wyre's unmet need during the Partial Review process, there is no attempt to actually do so. The statement says:

"5.4 *The Fylde Local Plan to 2032 paragraph 1.27 includes the following text reflecting the uncertainty during the examination as to the position in Wyre: Fylde Council recognises that Wyre Council have identified difficulties in planning to meet its objectively-assessed need for housing. Any need that remains unmet following the adoption of Wyre's Local Plan will need to be addressed. Fylde Council will undertake an early review of the Fylde Local Plan (whether full or partial) to examine this issue, working with other authorities adjoining Wyre under the Duty to Co-Operate. The objective of this process would be to ensure that any unmet need is met within the Housing Market Area and/or in other appropriate locations, where consistent with the achievement of sustainable development.*

5.5 *The Fylde Council Local Development Scheme includes the Partial Review of the Local Plan. It states: A Partial Review of the Fylde Local Plan to 2032 will bring the Local Plan in line with Paragraph 212 of the National Planning Policy Framework 2019. It will also consider the unmet housing need in Wyre in accordance with Paragraph 1.27 of the Fylde Local Plan to 2032 [our emphasis].*

5.6 *The indicative timetable for the production and examination of the Partial Review was initially set out in the November 2019 LDS. Fylde Council has produced an update (September 2020) which has taken into account the effects of Covid-19. The updated timetable is:*

- *The consideration of responses to the scoping consultation and its presentation to Planning Committee are provisionally scheduled for the period up to January 2020;*
- *the Schedule of Revisions for presentation to Planning Committee in January 2020;*
- *the production of technical assessments between January and March 2020;*
- *the presentation of the Publication Version to Planning Committee in March 2020;*
- *publication for public consultation between July and September 2020;*
- *submission in October 2020; examination in February-March 2021; and*
- *adoption in July 2021.*

5.7 *The Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017 requires that local planning authorities review local plans such that the review is completed within 5 years from the adoption date of the local plan. NPPF18 and the revised version of it published in February 2019 (NPPF19) include this requirement to review within 5 years and include policy as to which plan policies will need updating. Fylde Council will carry out a full review of the Local Plan within the five-year statutory period. There is therefore no need for the Partial Review of the Fylde Local Plan to 2032 to extend wider than the remit intended."*

2.7 In short, it would appear that Fylde Council initially state that they will consider the issue of unmet need during the Partial Review process before quickly moving on to say they will undertake a full review within 5 years of adoption and therefore move on to state that there is no requirement to review the unmet need for Wyre in the Partial Review as this is not within intended remit. In other words if they undertake a full review by October 2023, they will have fulfilled their obligation. However, para. 6.5 further confuses the matter by stating:

"6.5 *The Partial Review of the Local Plan needs to take account of any need that cannot be met in neighbouring areas, in accordance with paragraphs 11, 60 and 65 of NPPF19. The Wyre Local*

Plan (2011-2031) was adopted with unmet need. However, it commits Wyre Council to bringing forward a Partial Review (see below), with the objective of meeting in full the Objectively Assessed Housing Needs in Wyre, and including a review of the local housing needs figure.”

2.8 This is clearly an acknowledgement that there is a need to meet unmet needs from outside of the Borough but this time the justification for not doing so is that Wyre will undertake its own Partial Review and this will address any unmet need.

2.9 Unfortunately, this is the approach that Fylde have now taken for a number of years, since the original request from Wyre in May 2016 to assist in meeting Wyre’s unmet needs, and each time there is a reason given by Fylde not to meet Wyre’s unmet need, whether it be because the Local Plan process was too far advanced [Local Plan 2032] or now, because:

“Until detailed consideration has been given to this issue through Wyre’s partial review process, it has not been established that Wyre can meet any unmet needs within the Borough, para 6.11, Statement of Common Ground Wyre and Fylde].

2.10 Given there is no certainty that Wyre can accommodate their unmet needs, which they have failed to do so in the past, it is not a sound approach for Fylde to once again fail to take full account and make an allowance for this matter.

Q2. In relation to Wyre Borough Council’s unmet housing needs, a revised approach is set out for paragraphs 1.24-1.27 in the Partial Review. My queries are:

a. How has the duty to cooperate been specifically met in this regard?

2.11 The duty to cooperate has clearly not been met. The position reached by Fylde has come about from their own analysis and not from any degree of substantive co-operation.

b. Does the evidence demonstrate that Wyre Borough Council will be able to deliver unmet housing needs in its own area, or is there still a potential that unmet needs may need to be provided elsewhere?

2.12 There is no evidence currently available that Wyre will be able to deliver unmet housing needs within its own area. The constraints previously identified namely highways, green belt and flood risk still remain in their entirety and the situation is exacerbated by delays in the Partial Review of the Wyre Local Plan.

c. The proposed revised wording for paragraph 1.26 states that ‘Any housing need that cannot be met in Wyre...is provided for if needed through the new housing requirement range...in the Partial Review...’. This is based on standard method calculations of

assessing housing need which will be discussed under Matter 2, in response to questions posed there. Can the Council please clarify whether the Partial Review proposes to meet Wyre's identified unmet needs?

- 2.13 This is a vague and flawed approach, failing to provide the certainty that is an inherent part of the development plan system. It is also overly cautious, with the likelihood of an overall under supply which would cause harm to housing requirements and economic prosperity throughout the Fylde peninsula.

d. Should the Partial Review include a revised commitment to help meet any unmet housing needs, where relevant?

- 2.14 Almost 6 years ago, Wyre sought assistance from Fylde Council, under the duty to co-operate, to provide for the unmet housing needs of Wyre Borough. Fylde Council has consistently and repeatedly found an excuse not to assist with the result that Wyre still has a substantial unmet housing need. If Fylde Council once again do not make a commitment in this Partial Review of the Local Plan, to address the unmet need of Wyre that situation will only be exacerbated. For reasons beyond the Council's control, Wyre's Partial Review has fallen behind the envisaged timetable so it is even more important for Fylde to assist in this provision to avoid this situation continuing any longer.

- 2.15 Of the three authorities within the Fylde HMA, Fylde would appear to be the least constrained. It therefore follows that it should make the greatest provision to address the housing needs of other authorities.

e. Overall, in this regard, is the approach in the Partial Review soundly based?

- 2.16 By failing to co-operate, specifically in respect to meeting Wyre's unmet needs now, in the current iteration of the plan, the Partial Review is not soundly based. Indeed, by failing to address this issue for almost 6 years, this key element of the local plan is undermined.

Issue 1b – Has the Partial Review been prepared in accordance with other legal and procedural requirements?

Q3. Is the Sustainability Appraisal and Strategic Environmental Assessment Report [SDPR02] suitably comprehensive in assessing the environmental, social and economic effects of the Partial Review, in accordance with legal and national policy requirements?

Q4. Does the Habitat Regulations Assessment Screening Report [SDPR03] meet the legal requirements for assessing whether the Partial Review, either in isolation and/or in combination with other plans, is likely to have a significant adverse effect on relevant European sites, in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended)?

Q5. Has the Partial Review been prepared in accordance with the Council's Statement of Community Involvement and statutory consultation requirements?

2.17 These are matters for the Council and HF has no comments at this time. However, we reserve the right to comment further at the hearing.

Q6. Has the Partial Review been prepared in accordance with the Council's Local Development Scheme?

2.18 This is a matter for the Council and HF has no comments at this time. However, we reserve the right to comment further at the hearing.

Q7. In accordance with paragraph 21 of the National Planning Policy Framework (the Framework), the Council proposes, in Appendix 1 of SDPR01, to distinguish whether policies are strategic or non-strategic. The vast majority of policies are proposed to be strategic. Are the reasons for determining the status of the policies as strategic or non-strategic clear? Are the strategic policies limited to the strategic priorities for the area and any relevant cross-boundary issues, as required by the Framework?

Q8. Regulation 8(5) of the Town and Country Planning (Local Plan) (England) Regulations 2012 requires any new plan to list the policies in existing adopted plans which it is intended to supersede. The introductory text to the Schedule of Revisions to the Fylde Local Plan [SDPR01] states that the Partial Review supersedes nine specific policies in the adopted Fylde Local Plan to 2032. Is Appendix 1 of the adopted Local Plan proposed to be updated to show that these nine policies are to be superseded by the Partial Review? Can the Council clarify please?

2.19 This is a matter for the Council and HF has no comments at this time. However, we reserve the right to comment further at the hearing.

Q9. Does the Partial Review accord with the public sector equality duty, as specified under the Equality Act 2010? How has the Partial Review sought to ensure that due regard is had to the three aims expressed in s149 of the Equality Act 2010, in relation to those who have a relevant protected characteristic?

2.20 This is a matter for the Council and HF has no comments at this time. However, we reserve the right to comment further at the hearing.

Q10. Has the Partial Review been prepared in accordance with the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Plan) (England) Regulations 2012 in all other respects?

2.21 This is a matter for the Council and HF has no comments at this time. However, we reserve the right to comment further at the hearing.

3.0 APPENDIX

APPENDIX CA1

EXTRACT FROM BLACKPOOL LOCAL PLAN HOUSING TOPIC PAPER,
JANUARY 2021

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