

# WYRE LOCAL PLAN PARTIAL REVIEW (2011-2031) EXAMINATION

## STATEMENT BY WYRE BOROUGH COUNCIL ON THE INSPECTOR'S MATTERS, ISSUES AND QUESTIONS

### MATTER 1

#### Legal Compliance, Procedural Requirements and the Duty to Cooperate

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#### Issue 1 – Consultation and community engagement

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**1. *Is there any evidence that the Council has not complied with the SCI, not met the minimum requirements for consultation or that consultation and publicity has otherwise been inadequate at various stages of the LP Partial Review process?***

1.1 No, there is not.

1.2 The council has met the requirements for consultation and publicity as required by the Town and Country Planning (Local Planning) (England) Regulations 2012. The consultation and publicity undertaken is in line with the council's Statement of Community Involvement<sup>1</sup>. The Statement of Consultation<sup>2</sup> provides full details of the engagement process undertaken in developing the Wyre Local Plan.

1.3 As described in the Statement of Consultation (pages 7 to 9) and in accordance with the above regulations, the council has undertaken the following at Regulation 18 (Preparation) stage:

- (a) Public consultation inviting comments on the scope of the partial review was undertaken for just over six weeks (February – April 2020). The published scoping letter established the rationale for the partial review with reference to Policy LPR1 of the adopted Wyre Local Plan (2011-2031) (hereafter "WLP31") and the National Planning Policy Framework (NPPF).
- (b) The scoping consultation was promoted via a letter that was sent via e-mail and post to organisations and private individuals whose details are held on the planning policy consultation database. The database includes organisations referred to in the regulations as specific and general consultation bodies.
- (c) The letter was deposited for viewing at the public reception at the Wyre Council Civic Centre in Poulton-le-Fylde (principal office) and at the boroughs six local libraries. Officers ensured that materials were appropriately located and remained available during the consultation

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<sup>1</sup> Submission document - SDPR10

<sup>2</sup> Submission document - SDPR08a

period. The consultation material was also made available on the council's website.

- (d) Respondents were able to submit representations either electronically via e-mail or via post (or hand) to the planning policy team at Wyre Council. The council is not aware of any respondent or consultee being unable to respond to the consultation due to the implementation of measures by the council to address the then emerging COVID-19 pandemic which is not considered to have had an impact on the findings of the consultation.
- (e) As required by Regulation 18, comments were taken into account in setting the scope and preparing the Local Plan Partial Update, with the council publishing a summary of the main matters raised and its response in May 2020 (see Statement of Consultation, Annex 1<sup>3</sup>).

1.4 As described in the Statement of Consultation (pages 9 to 11) and in accordance with the above regulations, the council has undertaken the following at Regulation 19 (Publication) stage:

- (a) A seven week public consultation on the Publication draft Wyre Local Plan Partial Update and the Sustainability Appraisal (SA) (November 2021-January 2022). The public consultation also involved a wider suite of evidence-base and supporting documents that included the: Implementation of Policy LPR1 Background Paper; draft Statement of Consultation; draft Statement of Common Ground and Duty to Cooperate Statement of Compliance; and a Statement of Representations Procedure. Publicity included:
  - Formal notice in three local newspapers;
  - Consultation newsletter sent via e-mail and post to organisations and private individuals whose details are held on the planning policy consultation database. The database includes organisations referred to in the regulations as specific and general consultation bodies;
  - The council's social media channels publicised the public consultation;
  - The documents were placed on deposit for public viewing in the local libraries and at the public reception at the Wyre Council Civic Centre in Poulton-le-Fylde (principal office). Due to the temporary closure of Garstang Library, the nearby Garstang Tourism Information Centre was used as an alternative deposit venue. Officers ensured that materials were appropriately located and remained available during the consultation period; and
  - The consultation documents were also made available on the council's website.
- (b) As with the previous scoping consultation, respondents were able to submit representations either electronically via e-mail or via post (or hand) to the planning policy team at Wyre Council.

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<sup>3</sup> Submission document - SDPR08b

- 1.5 In accordance with the above regulations, the council has undertaken the following at Regulation 22 (Submission) stage:
- a) Published a Statement of Consultation<sup>4</sup> which details the consultation and engagement carried out in previous stages (as summarised above) and provides a summary of the main matters raised as a result of the consultation on the 'Publication' Draft Wyre Local Plan Partial Update (pages 11 – 19). The Statement of Consultation - Annex 1<sup>5</sup> includes a summary of each representation made at Regulation 18 with the council's response. The Statement of Consultation - Annex 2<sup>6</sup> includes a summary of each representation made at Regulation 19 with the council's response.
  - b) Notification of the submission of the Wyre Local Plan Partial Update was given to those who made representations to the Publication Draft Wyre Local Plan Partial Update and those other organisations and individuals held on the Local Plan consultation database (including specific and general consultation bodies).
  - c) The Submission draft, together with the proposed schedule of additional modifications,<sup>7</sup> and the Statement of Consultation have been placed on deposit in local libraries and at the public reception at the Wyre Council Civic Centre in Poulton-le-Fylde (principal office). The Sustainability Appraisal (including the non-Technical Summary)<sup>8</sup> remains on deposit from the Regulation 19 Stage having not been amended.

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## Issue 2 – The Duty to Cooperate

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2. ***Is there any evidence that the Council has not engaged constructively, actively, and on an on-going basis on strategic matters with other LPAs and other relevant bodies?***
- 2.1 No, there is not.
- 2.2 The council's Statement of Common Ground and Duty to Co-operate Statement of Compliance<sup>9</sup> sets out the council's approach to constructive cooperation with adjoining local planning authorities and other relevant bodies.
- 2.3 Preparation of the Wyre Local Plan Partial Update (2011-2031) has taken place over a relatively short period of time consistent with its limited scope. Nevertheless, a key aspect of plan preparation has been on-going and constructive dialogue and cooperation with neighbouring authorities and other key stakeholder organisations on strategic matters.

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<sup>4</sup> Submission document - SDPR08a-c

<sup>5</sup> Submission document - SDPR08b

<sup>6</sup> Submission document - SDPR08c

<sup>7</sup> Submission document - SDPR02

<sup>8</sup> Submission document - SDPR03

<sup>9</sup> Submission document - SDPR07a-c

- 2.4 The Fylde Coast Authorities Memorandum of Understanding (MoU)<sup>10</sup> provides an effective framework for engagement and collaboration between Blackpool, Fylde and Wyre Councils (Fylde Coast Authorities) and Lancashire County Council (LCC) on strategic planning issues that require cross boundary co-operation and collaboration. This ensures the requirements of the Government's 'Duty to Cooperate' are met. The MOU formalises the ongoing dialogue and co-operation that currently exists between the four authorities. Quarterly Fylde Coast Duty to Co-operate Officers' Group meetings<sup>11</sup> are held between officers from the Fylde Coast Authorities and LCC, where strategic planning issues are discussed.
- 2.5 The MoU does not address engagement with the remaining three adjoining local authorities. Separate one to one meetings with Lancaster City Council, Preston City Council and Ribble Valley Council are therefore undertaken.
- 2.6 The minutes of meetings with all adjoining local planning authorities, including Lancashire County Council are set out in Appendix 2 of The Statement of Common Ground and Duty to Co-operate Statement of Compliance<sup>12</sup>. The meeting minutes confirm that the matters agreed include Wyre's approach to the partial update to derivate the housing need and requirement through the use of the standard method; there is no requirement for additional transport and highway evidence to support the partial update; and there is no request for Wyre Council to meet the housing needs of neighbouring authorities.
- 2.7 The council has also held bespoke meetings and engagement with each highway authority, this includes Blackpool Council which is a Local Highway Authority in its own right, National Highways and Lancashire County Council as the Highway Authority. The discussions were focused on the matters identified by Policy LPR1 (2) in relation to a review of transport and highway issues.
- 2.8 The letters and responses with the three highway authorities are set out in Appendix 3 of The Statement of Common Ground and Duty to Co-operate Statement of Compliance. The letters confirm that the matters agreed include Wyre's approach to the partial update, and that taking account of the updated local housing need figure, which is lower than the figure of 460 dwellings per annum in the WLP31, and in accordance with Policy LPR1, there is no need to introduce additional transport or highway evidence to support the partial update.
- 2.9 The position of the adjoining local authorities and the highway authorities are confirmed in Part 2 (Statement of Common Ground) of the Statement of Common Ground and Duty to Cooperate Statement (page 23-35).
- 2.10 In relation to prescribed bodies and other interested parties, Part 3 (Statement of Compliance) of the Statement of Common Ground and Duty to Cooperate

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<sup>10</sup> Submission document - SDPR07b

<sup>11</sup> Note that as a result of the COVID 19 pandemic and the disruption to working arrangements, there was a reduced number of meetings over the 2020/21 period.

<sup>12</sup> Submission document - SDPR07a

Statement of Compliance (page 36-42), establishes that the extent of direct co-operation has been proportionate to the narrow focus of the partial update. This co-operation has involved broadly:

- Circulation of draft emerging evidence paper “Implementing LPR1” for informal comments to specific prescribed bodies and other specific consultation bodies as defined by the 2012 Regulations (September 2021) and to Wyre parish and town council’s and neighbouring parish council’s (October 2021);
- Briefing for Wyre Council ward members (October 2021) and face-to-face briefing for Wyre parish and town council’s (November 2021);
- Involvement in the Sustainability Appraisal Process (the Environment Agency, Historic England and Natural England) and in the Habitats Regulations Assessment (Natural England);
- Consultation with organisations and private individuals on the council’s consultation database on a draft revised Statement of Community Involvement (April-May 2021); and
- Consultation with organisations and private individuals at the Partial Update Scoping stage (February-April 2020) and Publication stage (November 2021-January 2022).

- 2.11 Additional detail on the council’s approach to consultation and engagement is set out in the Statement of Consultation<sup>13</sup>.
- 2.12 The duty to cooperate is not a duty to agree but a duty to engage in a positive and proactive manner<sup>14</sup>. The evidence shows that the council has engaged constructively, actively and on an on-going basis.
- 2.13 As set out in section 10 of the Statement of Common Ground and Duty to Co-operate (page 32-33), a matter of disagreement exists between Wyre Council and Fylde Council. This is solely focused on Wyre’s unmet housing need in the WLP31 and how this is accounted for within Fylde’s adopted Local Plan (incorporating Partial Review). This matter is further addressed in question 3 below and in response to matter 2, question 6. This is an effective outcome of the co-operation.

**3. *Does the LP (and/or the supporting information such as the DtC statement) need to be modified to reflect the position that Wyre can now meet all of its housing need, notwithstanding the provisions of the Partial Review of Fylde Local Plan?***

- 3.1 A main modification (E/MM/13) is proposed to the partial update, to reflect the position that Wyre can meet all of its housing need, notwithstanding the provisions of the Partial Review of Fylde Local Plan.

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<sup>13</sup> Submission document - SDPR08a-c

<sup>14</sup> Zurich Assurance Ltd v Winchester City Council [2014] EWHC 758 (Admin)

- 3.2 The Statement of Common Ground and Statement of Compliance along with the Duty to Co-operate statement at paragraph 8.14-8.16 sets out that there is no unmet need in Wyre that falls to be considered by neighbouring local authorities.
- 3.3 If the Inspector considers that further revisions are necessary, the council would support this.

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### **Issue 3 – The Sustainability Appraisal and its consideration of reasonable alternatives**

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**4. Does the SA meet statutory and legal requirements in relation to the assessment of reasonable alternatives? In particular should the SA have assessed, as reasonable alternatives, housing requirements in excess of the local housing need figure?**

- 4.1 Yes, the SA meets statutory and legal requirements in relation to the assessment of reasonable alternatives.
- 4.2 No, the SA should not have assessed reasonable alternatives to the housing requirement in excess of the local housing need figure.
- 4.3 The WLP31 and its associated SA (incorporating Strategic Environmental Assessment)<sup>15</sup> carried out an assessment of the likely significant effects of any reasonable alternative options. The WLP31 and associated SA were found to be sound.
- 4.4 It has been necessary to update the SA to reflect the revisions brought about by the partial update. The SA of the partial update follows on from the SA of the WLP31, it does not alter the overall approach and is consistent in terms of scope and methodology. The scope of the SA is tightly focused on the elements of the Local Plan that are proposed for revision, which reflects the narrow scope of the partial update set by Policy LPR1.
- 4.5 It is a requirement of the SEA Directive to identify, describe and evaluate reasonable alternatives to all options being considered and to justify the selected approach considering the alternatives dealt with.
- 4.6 The R (*Friends of the Earth*) v *Welsh Ministers* [2015] Hickinbottom J. at 88:  
*“iv) “Reasonable alternatives” does not include all possible alternatives: the use of the word “reasonable” clearly and necessarily imports an evaluative judgment as to which alternatives should be included. That evaluation is a matter primarily for the decision-making authority, subject to challenge only on conventional public law grounds.*

*v) Article 5(1) refers to “reasonable alternatives taking into account the*

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<sup>15</sup> Evidence documents - EDPR05 and EDPR06

*objectives... of the plan or programme...*” (emphasis added).

*“Reasonableness” in this context is informed by the objectives sought to be achieved. An option which does not achieve the objectives, even if it can properly be called an “alternative” to the preferred plan, is not a “reasonable alternative”. An option which will, or sensibly may, achieve the objectives is a “reasonable alternative”. The SEA Directive admits to the possibility of there being no such alternatives in a particular case: if only one option is assessed as meeting the objectives, there will be no “reasonable alternatives” to it.*”

- 4.7 It is clear from this judgement, that the assessment of reasonable alternatives is a matter for the decision-making authority and it is possible for there to be no reasonable alternatives to an option if only one option is assessed as meeting the plan’s objectives.
- 4.8 The SA<sup>16</sup> (pages 45 – 46) considered the need for an assessment of reasonable alternative options in relation to the development strategy, site allocations, local plan policies and local housing need. It concludes that there are no such alternatives and the SA assesses no reasonable alternative options.
- 4.9 Specifically in relation to the local housing need, it is the council’s view that the assessment of a housing requirement in excess of the local housing need figure of 296dpa, is not a reasonable alternative and should not be assessed in the SA.
- 4.10 To fulfil the requirements of Policy LPR1, the council has brought forward a partial update of the Local Plan with the objective of meeting the full Objectively Assessed Housing Need (now referred to as the Local Housing Need (LHN) as per the 2021 NPPF). In establishing the LHN, paragraph 61 of the NPPF 2021 states unequivocally: *“to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals”*. Using the standard method to calculate the minimum housing need figure is an expectation in both national policy and planning practice guidance.
- 4.11 For Wyre, no exceptional circumstances exist to justify an uplift to the standard method. The local housing need figure meets the objectives of the plan and no reasonable alternative options exist that require assessment in the SA.
- 4.12 Further commentary on exceptional circumstances is included in response to matter 2.

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<sup>16</sup> Submission document – SDPR03