

# DECISION ITEM



REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	DEVELOPMENT MANAGEMENT COMMITTEE	9 MARCH 2016	4

## FIVE YEAR HOUSING SUPPLY – ADDRESSING THE SHORTFALL

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

#### SUMMARY

Following a Notice of Motion brought before the February 2016 meeting of Full Council, the Council requested that the Development Management Committee consider which is the appropriate methodology to be used to account for the accrued shortfall in housing delivery that has been experienced since 2011. There are two generally accepted approaches to this, the first, the “Liverpool approach” spreads the delivery of the shortfall over the remaining plan period, whilst the alternative “Sedgefield approach” seeks to deliver the shortfall over the next 5 years. The “Sedgefield approach” is currently applied at Fylde because it more closely reflects current Government guidance and is considered a more robust approach that can be defended more effectively at appeal.

#### RECOMMENDATION

1. That the Development Management Committee make a recommendation to Full Council to continue using the “Sedgefield approach” in the calculation of the 5 year housing land supply as it most closely reflects current Government guidance as set out in the National Planning Policy Framework and Planning Practice Guidance having regard to the circumstances appertaining to Fylde borough.

#### CORPORATE PRIORITIES

To Promote the Enhancement of The Natural & Built Environment ( <b>Place</b> )	√	To Encourage Cohesive Communities ( <b>People</b> )	√
To Promote a Thriving Economy ( <b>Prosperity</b> )	√	To Meet Expectations of our Customers ( <b>Performance</b> )	√

#### SUMMARY OF PREVIOUS DECISIONS

At the meeting of Full Council on 8 February 2016 –in a response to a Notice of Motion, it was resolved: The council defers the motion to allow for a full report on this matter to be considered by the Development Management Committee prior to 31 March 2016, with a report on this matter coming back to the next available Council meeting on 11 April 2016.”

## REPORT

### Introduction

1. At the meeting of Full Council on Monday 8 February 2016 the following Notice of Motion was proposed:

*“That, with immediate effect, this Council adopts the ‘Liverpool’ approach in applying the shortfall in delivery of the Objectively Assessed Need (OAN) identified in the Housing Requirement Paper (2015) to the calculation of Fylde’s five year housing supply position, i.e. the shortfall would be applied over the plan period and NOT over the first five years of the plan (the ‘Sedgefield’ approach).”*

2. Following an amendment to that motion, the Council resolved:

*“The council defers the motion to allow for a full report on this matter to be considered by the Development Management Committee prior to 31 March 2016, with a report on this matter coming back to the next available Council meeting on 11 April 2016.”*

### Background

3. It is the Government’s stated intention to boost significantly the supply of housing<sup>1</sup>. To assist in achieving this objective, paragraph 49 of the National Planning Policy Framework (NPPF) advises that: “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”
4. Accordingly the absence or otherwise of a 5 year housing supply has considerable significance for the application of government policy in the determination of planning applications for residential development and a robust calculation of the 5 year supply is essential.
5. Failure to secure a 5 year housing supply also adds weight to the tests for decision-taking in paragraph 14 of the NPPF, including its presumption in favour of sustainable development.
6. The current annual housing target being taken forward in the Fylde Local Plan is 370 dwellings per annum. This figure is yet to be tested at examination, but has evolved from an up to date Strategic Housing Market Assessment (SHMA)<sup>2</sup> and, in the absence of any other figure, it is the base figure used for the calculation of the 5 year housing supply in Fylde. In each year since the start date of the local plan (2011) the development industry has failed to deliver 370 dwellings per annum and so a “shortfall” in the housing supply has been accrued.
7. The purpose of this report is to allow Members to consider the alternative methods for addressing this shortfall in line with the Notice of Motion.

### Addressing shortfall

8. There are two approaches taken to deal with any shortfall in supply, the differences coming from the time period over which the shortfall should be addressed. The first is a residual approach, or “Liverpool approach”, where the shortfall is spread across the remaining plan period i.e. the total number of homes still left to build is divided by the number of years remaining in the plan period – in Fylde’s case that would be until 2032. The second, the “Sedgefield approach”, seeks to make up the shortfall within the next five year period.

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<sup>1</sup> Para 47 National Planning Policy Framework

<sup>2</sup> Fylde Coast Strategic Housing Market Assessment 2014 (as amended by addendum 1 - Nov 2014 and Addendum 2 - May 2015)

9. The NPPF and the Planning Practice Guidance (PPG) stop short of prescribing which of these methods to adopt in addressing any shortfall. Both methods are defined as good practice examples in the May 2009 Land Supply Assessment Checks report prepared for the Department for Communities and Local Government (DCLG). This report examined best practice in assessing land supply, including the methodologies employed by Liverpool and Sedgefield Councils, hence the reference to these areas when referring to the two main approaches. This document predates the publication of both the NPPF in March 2012 and the PPG in March 2014.
10. Evidence from a review of recent decisions indicates that Planning Inspectors are currently favouring the “Sedgefield approach” in the determination of planning appeals. However, the High Court has recently considered a challenge to an Inspector’s use of the “Liverpool approach” in determining a planning appeal in Leicestershire<sup>3</sup> and found that it was legitimate for the Inspector to utilise the “Liverpool approach”. Whilst, on this point, the court found in favour of the Inspector’s application of the “Liverpool approach”, it should be noted that this decision does not mean that the “Liverpool approach” was the correct or only approach that should be used, but that the inspector provided reasoned and justifiable grounds for adopting the “Liverpool approach”.

### **Liverpool or Sedgefield**

11. As set out above, if housing delivery has not materialised at the rate expected then there is a shortfall on the first date at which the five year supply is considered and that must be taken into account. One criticism of the “Liverpool approach” is that, in effect this method compounds past under delivery rather than boosting significantly the supply of housing in line with the NPPF guidance.
12. Furthermore, the “Liverpool approach” does not follow the PPG advice which, at paragraph ID 3-035, advises that: “Local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period, where possible. Where this cannot be met in the first 5 years, local planning authorities will need to work with neighbouring authorities under the ‘Duty to Cooperate’.”<sup>4</sup>
13. The “Sedgefield approach” seeks to ensure that any shortfall in supply is made up within the 5 year period and is consistent with the Government policy contained within the NPPF, which seeks to “boost significantly the supply of housing” (NPPF para 47). It also accords with the Planning Practice Guidance (PPG) at paragraph ID 3-035 as set out above.
14. Since adoption of the NPPF, the “Sedgefield approach” has gained ground with the Secretary of State and Planning Inspectors, primarily as they appear to consider that delaying the supply of housing via the “Liverpool approach” is the antithesis of the approach advocated in the national planning policy framework. The advice set out in the PPG gives further emphasis to the use of the “Sedgefield approach”.
15. The methodology utilised by Fylde Council in calculating its 5 year housing supply has been adapted over the last few years having regard to changes in national policy and guidance, planning appeal decisions and best practice. It has been reviewed by Counsel and has been tested at a number of recent planning inquiries. Importantly, the methodology has emerged through the Strategic Housing Land Availability Assessment (SHLAA) Steering Group, which included a range of external organisations (a point noted by the Inspector in the determination of the recent planning appeal at Blackfield End Farm, Warton<sup>5</sup>) and is overseen by two Member representatives.

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<sup>3</sup> Bloor Homes v Secretary of State for Communities & Local Government [2014] EWHC 754 (Admin).

<sup>4</sup> PPG Paragraph: 035 Reference ID: 3-035-20140306

<sup>5</sup> Appeal reference APP/M2325/A/14/2217060 (para 140)

16. The “Liverpool approach” has been accepted by a number of local plan inspectors, however inspectors determining planning appeals prefer the “Sedgefield approach”<sup>6</sup>. The inspectors who have found favour with the “Liverpool approach” in determining planning appeals have generally done so where there is a recently adopted plan based on large scale strategic allocations that will take a number of years to come on stream. As the emerging Fylde Local Plan relies heavily on a series of large scale strategic sites, that will take time to come on stream, it could be argued that the “Liverpool approach” is the correct approach to be taken on Fylde as the shortfall will be made up during the plan period. However, caution should be exercised in taking this approach as a counter argument may be made that if a large site fails to deliver the expected housing, the plan as a whole could be compromised. The level of uncertainty regarding delivery is also increased as the Fylde Local Plan is still in draft form and has still to be the subject of an Examination in Public.
17. An example of a local plan inspector accepting the Liverpool approach can be seen in the neighbouring borough of Blackpool. The Blackpool Core Strategy Inspector addressed the methodology used by Blackpool Council in paragraph 52 of his report<sup>7</sup> where he considered:
- “Accounting for the shortfall in delivery in the first three years of the plan period and applying a 20% buffer to reflect persistent under-delivery in the past, the analysis demonstrates that there is currently a 5.7 years supply of deliverable housing land. This assumes that the shortfall in supply in the first three years is made up throughout the rest of the plan period rather than in the next five years. Whilst concern has been raised at this, and it is pointed out that the PPG advises that local authorities should aim to deal with any undersupply in the first five years of plan period where possible, there is nothing in national policy to indicate that this is an absolute requirement. Moreover, as indicated above, the Oxford Economics economic forecasts, on which the housing requirement figure is primarily based, implies a housing requirement of 72 dpa in the early years of the plan period<sup>8</sup> – a much lower figure than the 280 dpa plan period average housing requirement. This reinforces the appropriateness of “catching up” in full on early years’ delivery below the 250 dpa target (above the 72dpa figure) over a longer period than the next five years.”
18. As can be seen, the inspector considered that in Blackpool, due to the much lower housing requirement in the early years of the plan, which is some 208 dpa below the average annual housing figure for the plan period as a whole, it was appropriate to spread the shortfall over the full plan period. It must be noted that the housing markets in Fylde and Blackpool boroughs are very different and that the Fylde Coast SHMA does not show this dramatic variation in housing requirement for Fylde over the plan period.
19. Even in the event that a local plan inspector considers that it is appropriate, for the purposes of plan formulation to utilise the “Liverpool approach”, it does not follow that subsequent appeal inspectors will adopt the same approach. In an appeal decision issued in January 2015 relating to a site in Leicestershire<sup>9</sup>, an appeal inspector considered the relative merits of the Liverpool and Sedgefield approaches. The Local Planning Authority relied upon the “Liverpool approach”, which had found support from the inspector who considered their Core Strategy and who had noted “that the supply trajectory indicated an undersupply in the early years of the plan period, but that there would be a surplus later, when the planned Sustainable Urban Extensions (SUEs) would come on stream.” However, the appeal inspector went on to note that the Core Strategy inspector based his conclusion on a trajectory which showed a much more rapid delivery of housing in the early years of the plan than had actually occurred, and on the expectation of an earlier adoption of the Site Allocations Plan, preparation of which had been delayed. Having considered the cyclical

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<sup>6</sup> Ten key principles for owning your housing number-finding your objectively assessed needs – PAS - p14

<sup>7</sup> Blackpool Core Strategy - Report to Blackpool Council by Malcom Rivett

<sup>8</sup> Blackpool’s Housing Requirement: Technical Paper shows: 72 dpa 2012-17; 411 dpa 2017-2022 and 361 dpa 2022-2027 (p15)

<sup>9</sup> Land East of Groby Village Cemetery, Ratby Road, Groby - Appeal reference APP/K2420/A/12/2181080

nature of economic conditions, that the current under-supply represented an unmet need which exists now, rather than at a later date and having regard to the advice in the PPG that undersupply should be dealt with in the first five years of the plan period, the appeal inspector concluded that, overall, the objective in the NPPF to boost significantly the supply of housing, would be best served by making up the shortfall during the shorter term, in accordance with the “Sedgefield approach”. He reached this conclusion notwithstanding a previous appeal decision that had recently been made by the Secretary of State in the same borough that utilised the “Liverpool approach”.

### Five Year Supply Calculations in Fylde

20. The methodology used by Fylde to calculate the 5 year supply has been presented to Members on several occasions including learning hours and at the Development Management Committee (most recently 20 August 2015). In accordance with Government guidance, the housing supply statement is updated on an annual basis and Fylde uses a base date of 31 March. The most recently available housing land calculation is that with a base date of 31 March 2015. Since that calculation was published, it has been confirmed through a number of planning appeal decisions that the Planning Inspectorate considers that the buffer required to be built into the housing land supply should be applied to the shortfall, not just the base level need. Having regard to this emerging advice, Table 1 below sets out the housing supply utilising both the Liverpool and the Sedgefield approaches. The approach taken by Fylde in its 2015 calculation, i.e. the one no longer favoured by the Planning Inspectorate, is included for comparison.

Table 1 -Current Housing Supply Position in Fylde – Base date 31 March 2015

		Liverpool	Sedgefield	2015 Methodology	
				Liverpool	Sedgefield
Need					
a	Annual Requirement	370	370	444*	444*
b	Annual Allowance for Shortfall (735)	44	147	44	147
c	Adjusted Annual Requirement (a + b)	414	517	488	591
d	Plus 20% buffer allowance (c + 20%)	497	620	488*	591*
e	5 Year requirement (5 x d)	2485	3100	2440	2955
Supply					
f	Existing supply	2754	2754	2754	2754
g	Potential supply	50	50	50	50
h	Allowance for sites not coming forward (10%)	280	280	280	280
i	Total Supply (2754 + 50 – 280))	2524	2524	2524	2524
Outcome					
j	Surplus/deficit (i – e)	+39	-576	+84	-431
k	Supply in years (i /d)	5.08	4.07	5.17	4.27

\* Buffer applied prior to allowing for backlog i.e.  $370 \times 20\% = 444$

## Previous approaches to shortfall

21. As set out in Paragraph 16 above, the Council has amended its methodology used to calculate its 5 year housing supply over time having regard to changes in national policy and guidance, planning appeal decisions and best practice. During the latter years of using the Regional Spatial Strategy (RSS) to calculate housing supply (a figure of 306 dwellings per annum commencing in 2003), the Council utilised the “Liverpool approach”. The justification for using this approach was that, during the period from 2003, some of the backlog would have arisen as a result of an earlier “moratorium” on housing, consequent upon excess provision in relation to the former Lancashire Structure Plan, and that the effects of the severe downturn in housebuilding activity after 2008 had also contributed to under-delivery. In four appeals relating to sites at Wrea Green<sup>10</sup> that were determined alongside one another, an Inspector supported the Council’s use of the “Liverpool approach” over the appellant’s use of the “Sedgefield approach”, finding the Council’s approach to be “reasonable in this respect”.
22. However, because the RSS housing assessment is now considered out of date, the Council relies on the housing figure that has emerged from the SHMA 2014 (as amended). As this has a base date of 2011, it does not include the period during which there was a housing moratorium, nor does it cover the severest period of the housing market downturn. For this reason, and as the shortfall has accrued over a relatively short period of time, it was no longer considered appropriate to utilise the “Liverpool approach” and that the shortfall should be reconciled as quickly as possible if current Government guidance is to be adhered to, therefore the “Sedgefield approach” is currently used.

## Conclusion

23. The NPPF is not prescriptive as to which approach Local Planning Authorities should adopt when calculating their five year housing land supply. The “Sedgefield approach” is more closely aligned with guidance contained in the PPG and the requirements of the NPPF which identify the need to boost significantly the supply of housing and remedy the unsatisfactory consequences of persistent under delivery at the earliest opportunity. Inspectors’ decisions in relation to S78 appeals have confirmed a preference for this approach. For these reasons the Council currently calculates its 5 year housing land supply figure having regard to the “Sedgefield approach”.
24. Although applying the “Liverpool approach” to the most recently available data would result in the borough being able to demonstrate a 5 year housing land supply, it is important to note that, when applying the buffer using the methodology favoured by the Planning Inspectorate and applying the parameters agreed by Fylde’s SHLAA Steering Group, the housing supply is only just over 5 years when using the “Liverpool approach”. If a five year supply of land is to be maintained moving forward, it will still be necessary for planning permissions to be granted by the Council on unallocated land. It remains imperative, therefore, to ensure that the local plan is adopted as quickly as possible in order that housing allocations may be brought forward to assist in delivering a 5 year supply of housing.
25. The importance of an adopted plan is reinforced by a recent Secretary of State appeal decision relating to a site in Ashby-de-la-Zouch<sup>11</sup>. In his decision letter, the Secretary of State notes that: “Paragraph 47 of the Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites to provide five years of housing against their housing requirements. The Secretary of State notes that the appellant has not disputed the Council’s contention that it has a five year supply of housing land (IR87). He agrees with the Inspector that local planning authorities must also plan for housing supply beyond the five year period and, as

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<sup>10</sup> APP/M2325/A/13/2196494, ...2200215, ...2200856 & ...2209839

<sup>11</sup> APP/G2435/A/14/2228806 paragraph 14

set out in paragraph 47 of the Framework, identify a supply of sites for 6-10 years and, where possible, 11-15 years (IR87). He agrees with the Inspector that there is also a current national imperative to boost the supply of housing and, in recognition of this, the Council rightly does not cite their five year housing land supply as a reason to withhold planning permission (IR87). The Secretary of State attaches significant weight to the fact that the proposed development would provide for 605 new homes of which up to 182 would be affordable.” This Secretary of State decision would appear to indicate a further shift towards the principles set out at paragraph 14 of the NPPF which states that there is a presumption in favour of sustainable development and that, for decision taking, this means, where relevant policies in the development plan are out-of-date, granting planning permission for development unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Accordingly, where there is no identified harm to any matters of acknowledged importance, it would appear that the Secretary of State considers that planning permission ought to be granted, notwithstanding the presence of a 5 year housing supply.

IMPLICATIONS	
Finance	There are no financial implications arising directly from this report
Legal	None
Community Safety	None
Human Rights and Equalities	None
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	None

LEAD AUTHOR	TEL	DATE	DOC ID
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LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Five Year Housing Land Supply Statement	31 March 2015	<a href="http://www.fylde.gov.uk/council/planning-policy--local-plan-/five-year-housing-land-supply">http://www.fylde.gov.uk/council/planning-policy--local-plan-/five-year-housing-land-supply</a>
Fylde Housing Requirement Paper 2015	June 2015	<a href="http://www.fylde.gov.uk/assets/files/6493/Fylde-Housing-Requirement-Paper-2015.pdf">http://www.fylde.gov.uk/assets/files/6493/Fylde-Housing-Requirement-Paper-2015.pdf</a>
National Planning Policy Framework	March 2012	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf</a>
Planning Practice Guidance – Housing and economic needs assessments	Updated 4 February 2016	<a href="http://planningguidance.communities.gov.uk/blog/guidance/housing-and-economic-development-needs-assessments/">http://planningguidance.communities.gov.uk/blog/guidance/housing-and-economic-development-needs-assessments/</a>
Planning for housing. House of Commons Briefing Paper No 03741	2 June 2015	<a href="http://researchbriefings.files.parliament.uk/documents/SN03741/SN03741.pdf">http://researchbriefings.files.parliament.uk/documents/SN03741/SN03741.pdf</a>

Ten Key principles for owning your own housing number – Planning Advisory Service	April 2013	<a href="http://www.google.co.uk/url?sa=t&amp;rct=j&amp;q=&amp;esrc=s&amp;source=web&amp;cd=1&amp;cad=rja&amp;uact=8&amp;ved=0ahUKEwjv_t211YHLAhVCoD4KHRjvBOAQFggjMAA&amp;url=http%3A%2F%2Fwww.pas.gov.uk%2F%2Fdocument_library%2Fget_file%3Fuuid%3Dbcdabc05f-0042-4e4c-9258-653ebc11b5b1%26groupId%3D332612&amp;usg=AFQjCN Fxs9TbIv3C8LNdHmYlrr9wku42Xw">http://www.google.co.uk/url?sa=t&amp;rct=j&amp;q=&amp;esrc=s&amp;source=web&amp;cd=1&amp;cad=rja&amp;uact=8&amp;ved=0ahUKEwjv_t211YHLAhVCoD4KHRjvBOAQFggjMAA&amp;url=http%3A%2F%2Fwww.pas.gov.uk%2F%2Fdocument_library%2Fget_file%3Fuuid%3Dbcdabc05f-0042-4e4c-9258-653ebc11b5b1%26groupId%3D332612&amp;usg=AFQjCN Fxs9TbIv3C8LNdHmYlrr9wku42Xw</a>
Report to Blackpool Council by Malcom Rivett	23 November 2015	<a href="https://www.blackpool.gov.uk/Residents/Planning-environment-and-community/Documents/Blackpool-Inspectors-Report.pdf">https://www.blackpool.gov.uk/Residents/Planning-environment-and-community/Documents/Blackpool-Inspectors-Report.pdf</a>
Blackpool's Housing Requirement: Technical Paper	June 2014	<a href="https://www.blackpool.gov.uk/Residents/Planning-environment-and-community/Documents/EB003-Housing-Requirement-Technical-Paper.pdf">https://www.blackpool.gov.uk/Residents/Planning-environment-and-community/Documents/EB003-Housing-Requirement-Technical-Paper.pdf</a>

Details of the planning appeal decisions referenced in this report may be found by entering the reference number of the appeal (last 7 digits) into the Appeals Casework Portal available at:

<https://acp.planningportal.gov.uk/CaseSearch.aspx>