

Report of	Meeting	Date
Director of Business, Development and Growth (Introduced by the Executive Member for Homes and Housing)	Council	19 <sup>th</sup> September 2017

## **JOINT MEMORANDUM OF UNDERSTANDING AND STATEMENT OF CO-OPERATION RELATING TO THE OBJECTIVELY ASSESSED NEED FOR HOUSING**

### **PURPOSE OF REPORT**

1. To update members on the Strategic Housing Market Assessment and objectively assessed need (OAN) for Central Lancashire and Chorley, and secure approval to enter into a memorandum of understanding with Preston Council and South Ribble Councils which will enable the retention of the housing requirement figure for Chorley of 417 per annum.

### **RECOMMENDATION**

2. Chorley Council to enter into a formal memorandum of understanding with Preston City Council and South Ribble Borough Council to agree to retain the distribution of housing requirement as set out within the existing Central Lancashire Core Strategy. This would mean an annual housing requirement for Chorley of 417 dwellings.
3. Provide delegated authority to the Director of Business, Development and Growth in consultation with the Head of Legal, Democratic and HR services to agree any subsequent minor changes to the memorandum of understanding.

### **BACKGROUND**

4. There is a well-established partnership between the three Central Lancashire authorities with regards to the Local Development Framework and plan-making to reflect the single housing market area within which each borough falls.
5. Central Lancs Core Strategy was prepared jointly by Chorley, Preston and South Ribble Councils and adopted in July 2012. Core Strategy policy 4, *Housing Delivery* sets out the minimum housing delivery requirements for each local authority which are Chorley 417, dwellings per year, South Ribble 417 dwellings and Preston 507 dwellings.
6. The Core Strategy is informed by the strategic housing market assessment which is a detailed piece of evidence based on a range of statistics and intelligence. As the last SHMA was published in 2009, it was time to refresh the evidence.
7. The SHMA does not set housing targets, it provides an assessment of the need for housing, making no judgements regarding future policy decisions the councils may take.

8. The SHMA is a key piece of evidence and should identify the scale and mix of housing and range of tenures which the local population is likely to need over the plan period. Policy is then developed taking into account local factors and the housing requirement becomes what is commonly known as the 'policy-on' figure.
9. GL Hearn were commissioned by Preston Council on behalf of the three Central Lancashire Authorities in April 2016 to produce a new SHMA in order to update the evidence base and inform the review of the Core Strategy. The final SHMA report has now been produced and is ready for publication by all three local authorities.
10. The SHMA acknowledges the Central Lancashire as a single housing market and therefore provides a single objectively assessed need figure for the whole area, with recommendation that the distribution between Chorley, Preston and South Ribble is agreed, with a formal commitment made via an Memorandum of Understanding.

#### **METHODOLOGY FOR THE SHMA**

11. The methodology for the SHMA follows the planning practice guidance i.e. it starts from the latest demographic and household projections, taking into account longer term trends.
12. The methodology then makes adjustments for economic growth requirements, the basis of which is that, if there is significant planned economic growth, there may be a need for an increase in the economically active population to meet that growth. Adjustments are then considered for 'market signals'.
13. Its very important to recognise that the figure produced through this exercise must be a 'policy off' figure. Considerations such as policy constraints e.g. green belt or policy to encourage growth (i.e. City Deal) cannot be taken into account in determining this objectively assessed need figure.
14. Therefore it is important to acknowledge that this evidence must comply with guidance which is sets by government, as well as being influenced by decisions handed down in appeals. Officers have thoroughly assessed and verified the intelligence used by the consultants and therefore can confirm it is compliant within agreed guidance.
15. Recent caselaw (in particular a Court of Appeal judgment in Oadby & Wigston) has resulted in the directive that unless there a memorandum of understanding in place to ensure that the objectively assessed need is met across the housing market area i.e. Central Lancashire, then each authority should meet its own need figure for planning appeal purposes. This advice has been confirmed by Counsel acting for Chorley in a forthcoming appeal.

#### **HOUSING REQUIREMENT (POLICY-OFF)**

16. In order to reach the housing requirement for the local authority, there is a two-stage process, of which the SHMA is stage one. Also referred to as 'policy-off'.

17. The SHMA figures for each individual authority are set out as ranges within the SHMA and are included below:

Chorley: 419 – 519 dwellings per annum  
Preston: 225 – 402 dwellings per annum  
South Ribble: 351 – 440 dwellings per annum

18. In the case of Chorley and South Ribble, the lower figure is the demographic growth figure and the higher figure is the economic growth figure. In Preston it is the reverse i.e. the lower figure is the economic growth figure and the higher figure is the demographic growth figure.
19. Preston's demographic are such that it has a relatively young population compared with Chorley and South Ribble and, therefore, can meet its planned economic growth without the need to seek an increase in the workforce and the economically active population.
20. For Central Lancashire as a whole, the consultants recommend that the economic growth figure should be used i.e.  $519+225+440=1,184$ . This is marginally higher than the sum of the demographic growth figures which are  $419+402+351=1,172$ . However, the consultants advise that in order to ensure the Objectively Assessed Need is met, the higher figure should be used. Both figures are significantly below the current plan requirement figure of 1,341.
21. What this means is that as a SHMA provides a range of housing need figures for a local authority (based on demographics, economy and so on), the 'policy-on' figure must start from the highest figure in that range.

## **HOUSING REQUIREMENT (POLICY-ON)**

22. The second stage of determining the housing requirement (the 'policy-on' stage) is to take account of any growth initiatives and other local policy or considerations.
23. For Central Lancashire the policy-on considerations would be that it is a single housing market area and that within that area, there are planned growth initiatives which justify an alternative distribution of the housing requirement that that proposed in the policy-off figures.
24. The SHMA recognises that it would be appropriate and justified for the authorities to agree a redistribution of the housing requirement, based on the evidence.
25. The SHMA states:
- workforce growth is expected to be strongest in Preston, influenced by its younger population structure; whereas jobs growth is expected to be stronger in South Ribble and Chorley. The issue which arises is particularly one of spatial distribution of housing provision. The evidence points to the three authorities sitting in a common Travel to Work Area shows strong commuting and migration inter-relationships between them. In GL Hearn's experience, stronger weight should also be given to the realism of assessments of economic growth at the HMA level given the complexity of influences on future economic performance and the inter-relationship between this and housing need(para 10.18)*
26. *The distribution of housing can be achieved through considering and potentially agreeing a distribution of housing provision through the Duty to Cooperate(para 10.19)*
27. *The spatial distribution of need within the HMA varies depending on judgements made on projections. There has been a historical over-delivery of homes in Chorley relative to housing requirement policies, compared to an under-delivery in Preston and South Ribble.*

*Economic growth is expected to be stronger in Chorley and South Ribble, but there is a younger population structure in Preston which will see stronger workforce growth. There are choices to be made about where employment and housing growth are directed in this respect.(para 10.28)*

28. For individual authorities the consultants advise that, unless there a memorandum of understanding in place to ensure that the objectively assessed need is met across the housing market area i.e. Central Lancashire, then, in view of the Court of Appeal judgment in Oadby & Wigston, each authority should meet its own need figure for S78 appeal purposes.
29. This formal memorandum of understanding would enable the current plan requirement figures to be retained across the housing market area. As the Core Strategy figure of 1,341 clearly exceeds by some margin the 1,184 need figure across Central Lancashire, a memorandum of understanding retaining the plan requirement figures would ensure that the objectively assessed need is met across the housing market area.
30. Such an approach has been determined by the High Court to satisfy the requirements of the NPPF in the judgment in relation to East Riding of Yorkshire Council.

<b>Confidential report</b> Please bold as appropriate	Yes	<b>No</b>
<b>Key Decision?</b> Please bold as appropriate	<b>Yes</b>	No
<b>Reason</b> Please bold as appropriate	1, a change in service provision that impacts upon the service revenue budget by £100,000 or more	2, a contract worth £100,000 or more
	3, a new or unprogrammed capital scheme of £100,000 or more	<b>4, Significant impact in environmental, social or physical terms in two or more wards</b>

## **REASONS FOR RECOMMENDATION(S)**

### **(If the recommendations are accepted)**

31. To formalise the distribution of the housing requirement between Chorley, Preston and South Ribble Councils to enable the current plan requirement figures of 417, 507 and 417 respectively, to be retained across the housing market area.

## **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

32. Do not enter into a memorandum of understanding and do not commit to working in partnership with Preston and South Ribble Councils. This is rejected because it is a single housing market area and there is a need to ensure development within the wider area is sustainable and reflects policy growth initiatives such as the City Deal and the Enterprise Zone.

## CORPORATE PRIORITIES

33. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities	X	An ambitious council that does more to meet the needs of residents and the local area	

## IMPLICATIONS OF REPORT

34. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	X	Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

## COMMENTS OF THE STATUTORY FINANCE OFFICER

35. There are no direct financial consequences associated with this report.

## COMMENTS OF THE MONITORING OFFICER

36. Formal cooperation between neighbouring local planning authorities over the preparation of development plan documents and associated preparatory steps is required under Section 33A of the Planning and Compulsory Purchase Act 2004.

37. The purpose of the SHMA and its relevance to the planning process are addressed in the body of the report.

38. In the recent Court of Appeal case *Oadby and Wigston Borough Council v Secretary of State for Communities and Local Government* [2016] the lack of certainty over the operation of a joint policy to meet housing needs across local authority boundaries counted against the council when refusing permission for up to 150 dwellings on an unallocated site.

39. In *St. Modwen Developments Ltd v Secretary of State for Communities and Local Government* [2016] it was held by the High Court that the National Planning Policy Framework does not require housing need to be assessed always and only by reference to the area of the local planning authority.

MARK LESTER  
DIRECTOR BUSINESS GROWTH AND DEVELOPMENT

Report Author	Ext	Date	Doc ID
Zoe Whiteside	5771		***

## **Appendix One**

### **Central Lancashire Strategic Housing Market**

#### **Joint Memorandum of Understanding and Statement of Co-operation relating to the Provision of Housing Land**

**[INSERT DATE] 2017**

#### **Parties to the memorandum**

Chorley Council

South Ribble Borough Council

Preston City Council

#### **1. Central Lancashire**

1.1 Central Lancashire is defined as the area covered by the following three local planning authorities ('the Councils'):

- Chorley Borough Council
- Preston City Council
- South Ribble Borough Council.

1.2 The Councils, together with Lancashire County Council (which provides strategic planning functions in relation to highways, minerals and waste), have a very considerable history of joint working which reflects the compact nature of this part of Lancashire, focused on the urban core. Joint working is formally constituted in a Joint Advisory Committee of the Councils that was established in 2008.

1.3 Overall the Councils cover an area of some 458 sq. km (177 sq. miles) with a combined population of 366,270 (2016 mye). Importantly in this context, the area functions as one integrated local economy and travel to work area and is a single Housing Market Area. Containment levels approach 80% for travel to work and exceed 80% for housing moves when long distance moves are excluded.

1.4 Journey times by rail from Preston to Leyland are 6 minutes and to Chorley 14 minutes. Rail journey times between Chorley and Leyland are 8 minutes. Both Chorley and Leyland are within 20 minutes journey time by road from Preston and 15 minutes between the two.

#### **2. The Current Development Plan**

2.1 The history and depth of joint working by the Councils is reflected in the current development plan consisting of:

- The Joint Central Lancashire Core Strategy adopted by the Councils in July 2012. The Joint Core Strategy complies with the National Planning Policy Framework ('NPPF' or 'the Framework').
- Site Allocations Plans for each Council area all adopted in July 2015. These plans set out policies to achieve development that reflects the overall strategic framework set out in the Core Strategy. All plans are NPPF-compliant.

- Individual Area Action Plans and Neighbourhood Plans within each authority as listed in Appendix 1.

2.2 Joint Core Strategy Policies 1 and 4 are of particular relevance to this Memorandum. Policy 1 sets out the overall spatial pattern of development being concerned with locating growth across Central Lancashire. Policy 4 contains the housing requirements for each local authority.

Chorley: 417 dwellings per annum

Preston: 507 dwellings per annum

South Ribble: 417 dwellings per annum.

TOTAL: 1,341

### **3. The purpose of the Memorandum and Statement**

3.1 The purpose of this document is to confirm and demonstrate an approach agreed by the Councils concerning the distribution of housing in the Housing Market Area referred to at paragraph 1.3 above. This agreement is informed by the Strategic Housing Market Assessment, August 2017. The Statement sets out the agreed approach to the distribution of housing prior to adoption of a new plan.

3.2 In reaching this agreement the Councils have had regard to the High Court judgment in *St Modwen Developments Ltd v SSCLG & East Riding of Yorkshire Council* [2016] EWHC 968 (Admin) and to the Court of Appeal judgment in *Oadby & Wigston Borough Council v SSCLG & Bloor Homes* [2016] EWCA Civ 1040.

3.3 Details of each Council's agreement to this document are set out in Appendix 2.

### **4. Duty to Co-operate**

4.1 The statutory duty to co-operate is set out in s.110 of the Localism Act 2011, which amends the Planning and Compulsory Purchase Act 2004.

4.2 Paragraph 178 of the NPPF indicates that public bodies have a duty to cooperate on planning issues that cross administrative boundaries particularly those relating to the strategic priorities, including housing, set out in the Framework. The Government expects joint working on areas of common interest to be diligently undertaken for the mutual benefit of neighbouring authorities.

4.3 Paragraph 179 states that strategic priorities across local boundaries should be properly coordinated and clearly reflected in individual Local Plans and paragraph 180 that local planning authorities should take account of different geographic areas, including travel to work areas.

4.4 Paragraph 181 sets out the expectation that local planning authorities will demonstrate evidence of having effectively co-operated to plan for issues with cross-boundary impacts in plan making. Such co-operation should be continuous.

4.5 The Councils have co-operated in the preparation of the current development plan as well as in the preparation of a range of supplementary planning documents and non-statutory planning processes. They commissioned evidence jointly for preparation of the existing development plan and are commissioning such evidence for the preparation of the replacement plan. In particular a new Strategic Housing Market Assessment ('SHMA') has been published in August

2017. This sets out Objectively Assessed Housing Needs for the Housing Market Area as a whole and for each district within it.

- 4.6 The Councils agree that, for the reasons set out below, it is appropriate to retain the current Central Lancashire Core Strategy housing requirement figures as set out in CS Policy 4 to ensure that the full objectively assessed housing need across the housing market as a whole is met.

## 5. Meeting the Objectively Assessed Need

- 5.1 Paragraph 47 of the NPPF states that local planning authorities should use their evidence base to ensure that their 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 set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period.

- 5.2 Paragraph 159 states that local planning authorities should have a clear understanding of housing needs in their area including preparing a SHMA to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries.

- 5.3 Ouseley J explained as follows in his judgment in the *St Modwen* case:

*“74.....I agree with the Inspector that the NPPF does not require housing needs to be assessed always and only by reference to the area of the development control authority.*

*75. The first question is whether Hunston required the Inspector to reach a different decision. It did not. Hunston holds that, for whatever is the housing market area being considered, it is the full, objectively assessed, needs of that area which are to be considered. Hunston does not decide or even comment on the prior question of what housing market area should be examined, nor does it address the issue of how the needs should be apportioned between the various parts of the housing market area where it covers two local planning authorities’ areas. Solihull makes the point that the phrase “as far as is consistent with the policy set out in this Framework” cannot be construed so as to bring in to the assessment of the full objectively assessed needs via the back door, what Hunston had excluded at the front door, namely policy constraints on which the local plan might impose on actually meeting those needs. But it does not deal with the area to be taken in the assessment of housing needs.”*

- 5.4 And Lindblom LJ explained further as follows in *Oadby & Wigston*, referring to the *St Modwen* case:

*“53. In that case the inspector and Secretary of State were able to accept, as the appropriate basis for testing the sufficiency of the housing land supply, the agreed apportionment of housing needs between the two administrative areas in the housing market area – given the authorities’ long-standing and continuing co-operation in plan preparation. Ouseley J. saw nothing unlawful in that conclusion.”*

- 5.5 It follows that the Housing Market Area is an appropriate basis for assessing the full Objectively Assessed Need for housing provided that there is agreement between the constituent local planning authorities of the HMA concerning how that need is to be addressed between them.



5.6 The Councils have jointly commissioned GL Hearn to produce a SHMA. A first draft was produced in September 2016. A final SHMA was published in August 2017 to take account of the Court of Appeal judgment in *Oadby and Wigston* and updates the demographic data to take account of the 2016 mid-year population estimates.

5.7 The final SHMA (August 2017) identifies the full Objectively Assessed Need for the Housing Market Area as being 1,184 dwellings per annum. The distribution between the three authorities is:

- Chorley: 519 dwellings per annum
- Preston: 225 dwellings per annum
- South Ribble: 440 dwellings per annum
- Total: 1,184

The total is lower than the current development plan requirement of 1,341 dwellings per annum as is the annual requirement for Preston (compare paragraph 2.2 above). Chorley’s and South Ribble’s need figures are higher than the plan requirement. These figures take into account economic growth. There are uplifts in Chorley and South Ribble above the demographic growth figures, which are 419 dwellings per annum for Chorley and 351 dwellings per annum for South Ribble. However, in Preston the demographic growth figure exceeds the economic growth figure and is 402 dwellings per annum.

In summary the demographic and economic growth figures for each authority are:

Authority	Demographic growth (dpa)	Economic growth (dpa)
Chorley	419	519
Preston	402	225
South Ribble	351	440
Central Lancashire	1,172	1,184

5.8 If each local planning authority were required to meet its own Objectively Assessed Need including, for Chorley and South Ribble, that deriving from economic growth in the absence of an agreement to apportion the need between them, the Objectively Assessed Need for each would be:

- Chorley: 519 dwellings per annum
- Preston: 402 dwellings per annum
- South Ribble: 440 dwellings per annum
- Total: 1,361

5.9 The total of the requirement figures for each individual authority exceeds the current local plan requirement by only 20 dwellings per annum (1,361 dwellings per annum compared with 1,341). Nevertheless the total of individual OAN figures for Chorley and South Ribble based on economic growth and Preston based on demographic growth exceeds the Objectively Assessed Need figure for the HMA as a whole by a margin of 15%. A distribution of housing based on the current Core Strategy requirements ensures that there is a pattern of development that directs housing growth towards the priority areas, particularly the strategic sites and locations identified in Cottam and North West Preston, where land is already allocated to deliver significant new housing in accordance with the Preston, South Ribble and Lancashire City Deal agreement.

5.10 The Councils agree for the following reasons both (a) that it is appropriate for the proper planning of Central Lancashire as a whole that an apportionment of the full Objectively Assessed Need is made across the Housing Market Area and (b) that the current Joint Core Strategy requirement figures - which exceed the Objectively Assessed Need on a Housing Market Area footprint - should continue to be applied prior to or pending adoption of a replacement local plan.

a) Apportionment on the basis of the current plan requirement figures reflects the spatial pattern of development in Policy 1 of the Joint Central Lancashire Core Strategy, which has been examined and found to be sound in the context of the NPPF.

b) Site Allocations have been determined to meet the current spatial pattern of development. Meeting the housing requirement figures in the current Joint Core Strategy ensures that the Objectively Assessed Need is met in full across the Housing Market Area.

c) Apportionment on this basis reflects and facilitates the historic and continuing high levels of joint working between the authorities.

d) The high levels of containment for both travel to work and housing market areas are sufficient to ensure that apportionment on the basis of the Joint Core Strategy requirement can be achieved.

e) Apportionment on this basis will help to address net out-migration from Preston to other parts of the Housing Market Area.

## **6. Agreement**

6.1 Chorley Borough Council, Preston City Council and South Ribble Borough Council agree:

a) To continue until the adoption of a replacement local plan to apply the housing requirements set out in the Joint Central Lancashire Core Strategy Policy 4, i.e.

Chorley: 417 dwellings per annum

Preston: 507 dwellings per annum

South Ribble: 417 dwellings per annum.

b) That there is no requirement for each local planning authority to meet its identified individual Objectively Assessed Need for housing where higher in view of this agreement and the longstanding and continuing joint working between the Councils.

c) To continue the existing monitoring arrangements for the Central Lancashire Core Strategy and individual local plans to confirm that the MOU is delivering as intended.

## **7. Review**

7.1 The document will be reviewed no less than every three years and will be reviewed when new evidence that renders this MOU out of date emerges.

Signed on behalf of Chorley Council

Councillor Alistair Bradley

Date

Signed on behalf of South Ribble Borough Council

Councillor

Date

Signed on behalf of Preston City Council

Date

Councillor Peter Moss

## **Appendix 1**

Central Lancashire Development Plan Documents

Central Lancashire Core Strategy (adopted 17 July 2012)

Central Lancashire Open Space and Playing Pitch Supplementary Planning Document (August 2003) including financial contributions for new provision and improvements

Central Lancashire Affordable Housing Supplementary Planning Document (October 2012)

Central Lancashire Employment Skills Supplementary Planning Document September 2017 (to be adopted by all Central Lancashire authorities in September 2017).

## **HOUSING EVIDENCE**

Central Lancashire Strategic Housing Land Availability Assessment (2010 – SHLAA)

Central Lancashire Strategic Housing Land Availability Assessment 2011 (February 2012 update - a partial review and update of the SHLAA 2010)

Chorley Housing Land Monitoring Report (June 2017)

Central Lancashire Strategic Housing Market Assessment (September 2017)

