

Record of Executive Member Decision Taken Under the Scheme of Delegation	On
	8 March 2021

Title	Report of
Annual Housing Requirement	Jonathan Noad

Is this report confidential?	No
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Purpose of the Report

1. This report contains a “review” (for the purposes of NPPF paragraph 73 and footnote 37) of the figure which is to be used as the basis for the calculation of the LPA’s housing land supply, for the purposes of the determination of planning applications for housing both by the Council and by Planning Inspectors on Appeal.
2. There is no statutory or planning policy prescription on the nature of any “review” which is to be undertaken by the LPA in undertaking such a review. National Guidance requires a review to be proportionate. The LPA is, therefore, given a broad discretion as to the manner in which such a review is undertaken, subject to public law principles. There is no requirement for public consultation, although consultation could form a component of a review.
3. It is for the LPA (and the LPA alone) to undertake a review. The decision is for the LPA alone. The decision cannot be challenged in a s.78 planning appeal. The decision can only be challenged in a claim for judicial review.
4. Where there has been a “review”, that review can be time-limited and/or subject to a material change in circumstances. Indeed, the NPPG is expressly clear that a reviewed policy will continue to be up to date unless there have been “significant changes” as outlined in the PPG (see PPG at 61-062). The Planning Court has held that the significant changes outlined in the PPG are not exhaustive and that the introduction of

the standard method into national planning policy is capable of amounting to a “significant change rendering Core Strategy Policy 4(a) out of date” (see Dove J in **Wainhomes Ltd v SoS HCLG and South Ribble BC** [2020] EWHC 2294 (Admin), especially at para 42 and 43).

5. The purpose of this Report is, therefore, (i) to carry out a review of policy 4 JCS (for the purposes of NPPF paragraph 73 and footnote 37); and (ii) to consider whether there has been a significant change since the review of policy 4 JCS, which renders the policy out of date, such that the standard method should form the basis of the housing land supply calculation.

Recommendations

6. That the Executive Member endorses the use of the ‘Standard Methodology’ as set out by Central Government for the purposes of calculating South Ribble’s annual housing requirement, which is currently 191 dwellings per annum, because the introduction of the standard method in NPPF constitutes a significant change which renders policy 4 JCS out of date; and
7. That the standard method local housing need shall be used for the purposes of Development Management for the determining of planning applications and as a basis for the preparatory work in reviewing the Local Plan. This is currently a figure of 191 dwellings per annum but may change slightly as and when new data is released.

Other options considered and rejected

8. Although the above NPPF policy is clear that we should be using the ‘Standard Method’ the alternative would be to carrying on using the annual housing requirement figure as set out in the Core Strategy (417 dpa) which for the reasons set out in this report is no longer appropriate. The policy setting out this figure within the Core Strategy is now clearly out of date.

Corporate outcomes

9. The report relates to the following corporate priorities:

An exemplary council		Thriving communities	x
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A fair local economy that works for everyone		Good homes, green spaces, healthy places	x
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Background to the report

10. The background to this report is well known and does not need repeating in detail. There has been a series of events including: (i) a “review” of strategic policy 4 JCS and the housing requirement it contains; (ii) the evidence provided to the Chainhouse Lane Appeal and the decision of the Planning Inspectorate; (iii) the decision of the Planning Court to quash the Chain House Lane refusal of planning permission; (iv) other relevant evidence and appeal decisions, such as Pear Tree Lane, Chorley and Cardwell Farm, Preston; (v) the evidence provided to the forthcoming Inquiry at Chain House Lane; (vi) the evidence and analysis which was produced in the formulation of MOU 1; and (vii) the evidence and analysis which has been produced in the formulation of MOU 2. All such matters have grappled with the issue of whether the strategic policies set out in the Core Strategy, especially JCS Policy 4, have been “reviewed” and if they have then have they been found out of date. Arising out of this is the issue of which methodology should then be used for the purposes of calculating the annual housing requirement. This succession of events is summarised in the section of below.

Relevant facts/events that provide background to this decision

11. It is useful to put the relevant background events/facts to this decision in chronological order. This is explained in detail in the evidence which has been submitted to the Chain House Lane Inquiry (to which reference should be made if further detail is required).
12. The Central Lancashire Core Strategy adopted in 2012, set a housing requirement of 417 dwelling per annum in South Ribble, covering the period 2003 – 26. This was based on the requirement in the Regional Spatial Strategy for the North West;
13. In 2017 a Strategic Housing Market Assessment was carried out and a Memorandum of Understanding was agreed in September 2017, (MOU1). This agreement stated the Housing Requirement figures in the Core Strategy had been reviewed and the figures did not need updating. The LPA accepts (in the light of the evidence which was submitted to the first Chain House Lane Inquiry and the decision of Dove J in *Wainhomes Ltd v SoS HCLG and South Ribble BC* [2020] EWHC 2294 (Admin) on

Ground 1) that a “review” of strategic policy 4 JCS has been undertaken and found not to require updating (for the purposes of NPPF paragraph 73 and footnote 37).

14. A revised NPPF was then published (2018) which introduced a standard method for assessing housing. This outlined a fundamentally different approach to assessing housing need from that used when the 2017 SHMA was carried out. This had informed MOU1, so this change rendered MOU1 out of date and not consistent with national policy.
15. Indeed, MOU 1 expressly states that (i) it will be reviewed every 3 years; and (ii) it will be reviewed when new evidence emerges that renders the MOU out of date (see para 7.1). A review of MOU 1 is therefore required, as it is out of date and new evidence has clearly emerged (the publication of the standard methodology in amended national policy) which renders it out of date.
16. The Central Lancashire Authorities commissioned a further housing study which was completed in March 2020. This study identified a housing need across Central Lancashire housing market area of 1026 dpa compared to 1184 dpa at the time of the 2017 SHMA. It also demonstrated a changed distribution with higher proportions of housing need in Chorley and notably lower in Preston and South Ribble.
17. Based on this evidence MOU2¹ was prepared in April 2020, after a period of public consultation. This addressed *inter alia*:
 - The housing requirement and whether the Policy 4 of the Core Strategy is out of date as a result of a significant change in circumstances;
 - An alternative housing distribution to that within CS Policy 4.
18. The process of review culminating in MOU 2 concluded that CS Policy 4 was out of date and inconsistent with national policy. In Section 6 it set out an alternative distribution of housing provision in Central Lancashire namely:
 - Preston 40%;
 - South Ribble 32.5%;

¹ Central Lancashire Local Plan Memorandum of Understanding and Cooperation: Relating to the Provision and Distribution of Housing Lane (April 2020)

- Chorley 27.5%

19. A subsequent Statement of Common Ground was signed in May 2020 applying this percentage split to the latest LHN figures, which showed a need for 1,010 dwellings pa across Central Lancashire. The LPA considers that this process amounted to a second review for the purposes of NPPF 73 and fn 37, which clearly concludes that there has been a significant change in circumstances, such that the first review is out of date and policy 4 is out of date. This is apparently disputed, in particular by Wainhomes in the Chain House Lane Appeal.

Gornall - a party with land interests in Preston - were given leave on 9th July 2020 to Judicially Review the decision of Preston City Council to adopt the (MOU2) citing concerns regarding the redistribution of housing need. Both South Ribble and Chorley BC became involved as Interested Parties as co-signatories to the (MOU2). Preston subsequently confirmed that they would not defend the case. Following the above decision on 4th November 2020 Preston City Council's Cabinet resolved to approve withdrawal of the Council from the MOU2 and Statement of Cooperation and stated that it will not be relied upon by the Council for Development Management purposes in determining planning applications

20. It is therefore considered that no material weight can attach to the redistribution of housing need in MOU 2 in the determination of planning applications. It is, however, considered that significant weight can attach to the process of review which culminated in the signing of MOU 2. In particular, the conclusion that policy 4 is out of date and inconsistent with NPPF, such that housing land supply should be calculated in accordance with the standard method remains valid. Nonetheless (and without prejudice to such points), it has been decided to undertake a review afresh and to reconsider the matter. It is appropriate to consider the issue of whether there has been a significant change in circumstances, for the purposes of the NPPG, in the light of all the evidence which is now before the LPA, such that a clear, robust and binding decision can be reached to bring finality and clarity to the issue.

21. A subsequent appeal decision Pear Tree Lane (Chorley Borough) was issued 11th August 2020, where the Inspector considered whether an alternative distribution of housing numbers could be supported through MOU2. Considering his conclusions in this regard, it is clear that the Inspector was of the view that Policy 4 is out of date and the redistributed figures in the MOU2 should not be applied in calculating the housing land supply. Basically, he concluded the mechanism for establishing a re-distribution

of housing figures is through the Local Plan process and not through an MOU. At DL 45, the Inspector clearly concludes that Policy 4 is out of date, as a result of the change in national policy, which introduced the standard method. This was not disputed by the Main Parties and is expressly endorsed by the Planning Inspector. This is a consideration of very significant weight. In particular, it must be appropriate for a consistent basis for the calculation of housing land supply to be calculated across the same Housing Market Area. If the standard method is the appropriate basis for calculating housing land supply in Chorley, it should be the appropriate basis for calculating housing land supply in Preston and Chorley.

22. The Chainhouse Lane Appeal decision for residential development (APP/F2360/W/19/3234070) which was dismissed, was subject to Judicial Review (see reference above). Dove J quashed the decision on the basis of the Appeal Inspector failing to provide adequate reasoning in grappling with the distribution consequences that would arise from the use of the Standard Method across Central Lancashire (Ground 5 – see para 38). Further, the Judge concluded that the Inspector’s reasoning was flawed in concluding that there had not been a “review” of policy 4 (ground 1 – see para 39). However, the Judge held that Ground 1 could not succeed unless Ground 3 also succeeded (see para 39). In this important regard, the Judge held:

42. Turning to ground 3, it needs to be borne in mind that the passage from the PPG in relation to the need to review plans when there has been a significant change arose in the context of the arguments about whether or not Core Strategy Policy 4(a) was out of date and, in particular, was relied upon in paragraph 37 of the decision as one of the reasons for the Inspector’s conclusion that Core Strategy Policy 4(a) was out of date. Whilst it is fair to observe that the only significant change specifically instanced in the PPG is where a housing requirement is found to be significantly below the number generated using the standard method, in my view this passage of the PPG needs to be read purposefully and as a whole. The third paragraph of the passage of guidance makes clear that a plan will continue to be treated as up to date “unless there have been significant changes as outlined below”. The following paragraph provides some examples where there may have been significant change but, as Mr Cannock points out, the question of whether or not there has been a significant change warranting a review of the plan on the basis that it is not up to date is not curtailed or circumscribed by the contents of the final paragraph.

43. There may be many material changes in the planning circumstances of a local authority’s area which would properly render their existing plan policies

out of date and in need of whole or partial review. I am unable to accept Mr Fraser's submission that it is impermissible to regard the emergence of a local housing need figure which is greatly reduced from that in an extant development plan policy as having the potential to amount to a significant change. Whilst he is entitled to point to the wider national planning policy context of boosting significantly the supply of housing land, as Mr Cannock points out in his submissions, the use of the standard method to derive local housing need is part and parcel of the Framework's policies to achieve that objective. Moreover, the question of whether or not any change in circumstances is significant is one which has to be taken on the basis of not only the salient facts of the case, but also other national and local planning policy considerations which may be involved. In short, in my view, the language of the PPG and its proper interpretation did not constrain the Inspector and preclude her from reaching the conclusion that she did, namely that the significant difference between the housing requirement in Core Strategy Policy 4(a) and that generated by the standard method was capable of amounting to a significant change rendering Core Strategy Policy 4(a) out of date. That was a planning judgment which she was entitled to reach and was properly reasoned in her conclusions.

23. It is agreed and endorsed (in particular) that: *the significant difference between the housing requirement in Core Strategy Policy 4(a) and that generated by the standard method was capable of amounting to a significant change rendering Core Strategy Policy 4(a) out of date.* As a matter of planning judgment that is considered to be unanswerably correct, taking into account all relevant considerations, in particular those raised through the process of consultation through the MOU 2 process and the evidence submitted to the Cardwell Farm and Chain House Lane Inquiries. The Council has considered whether there are other factors in addition to the standard method which might justify the retention of JCS policy 4 figure, including the aspirations of the City Deal and the need for affordable housing. The City Deal is not however an expression of housing need and is undergoing a mid-term review. Whilst higher housing delivery would contribute to the delivery of affordable housing, the evidence does not suggest that this per se would justify the retention of the policy 4 housing requirement.
24. The Government Consulted on a White Paper August 2020 outlining fundamental reforms to Planning as a whole and, with particular relevance to this, how it foresaw the methodology behind establishing Local Housing Need working in the future.
25. Further to that consultation the Government responded taking into account the responses received (many of which voiced strong concerns) by saying that they would retain the Standard Method in its current form which meant for South Ribble retention

of the methodology which with the current data produces an annual housing requirement of 191 dwellings per annum using the Standard Method.

26. Reasons for Decision

In conclusion bringing the consequences of all the above together it is the case that:

- Core Strategy Policy 4 is out of date and inconsistent with the NPPF. Whilst there has been a review of the policy, that review is out of date and time-expired. Further, the introduction of the standard method is a significant change in circumstances (as is the Per Tree Lane decision), which renders the review out of date and the policy out of date. It is the standard method (not policy 4) which should form the basis of the calculation of housing land supply in the determination of planning applications.
- MOU2 is no longer in place given the withdrawal of one of the signatories reflecting issues relating to the redistribution of housing need
- In such circumstances Paragraph 73, footnote 37 of the NPPF sets out that we should revert to the Standard Method which as the Government reiterated (December 2020) is 191 dwellings in the case of South Ribble based on the current data.

Risk

27. The risk associated with this decision is that if we don't make our position clear in respect of the annual housing figure then we could be challenged that we are not following the most up to date Government Policy in circumstances where the relevant policy in the Local Plan is out of date.
28. A secondary risk but of less weight is that developers/agents/other interested parties may seek to challenge the use of the annual housing figure arising out of the 'standard method' in preference for the much higher annual figure set out in the Core Strategy', in circumstances where it would assist their development interests.

Equality and diversity

29. There are no equality and diversity implications arising out of this decision as we are essentially following Government Policy in terms of providing clarity over the annual

housing requirement for the Borough which is in turn is tied into the wider picture of ensuring delivery of a range of different housing types and tenures.

Comments of the Statutory Finance Officer

30. The assumptions within the budget around Housing were based on prudent estimates and as this proposal is to match the government methodology should not create differences from these.

Comments of the Monitoring Officer

31. This is a complex area – there have been a number of decisions relevant to this in recent times. The primary purpose of this decision is to provide clarity over what the council's position is with regard to its annual housing requirement and the reasoning behind it. Thus this decision could potentially be of assistance to all parties at a Planning Inquiry.

Background documents

32. There are no background papers to this report.

Appendices

33. There are no appendices to this report

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Confirmation of Urgency

I agree that this decision is urgent as set out in the report and in accordance with relevant urgency provisions in the Council's constitution:

Signed:	
	Councillor David Howarth Chair of the Scrutiny Committee
Date:	2.3.2021

Following careful consideration and assessment of the contents of this report, I approve the recommendation(s) contained within this report in accordance with my delegated power to make executive decisions.

Signed:	<i>W Evans</i> Cllr W. Evans
	Cabinet Member for Planning, Business Support and Regeneration
Date: 08 th March 2021	
Publication Date (DSO use only):	8.3.2021

This decision will come into force and may be implemented five working days after its publication date, subject to being called in in accordance with the Council's Constitution.