

REPORT TO	ON
Full Council	26/02/2020



TITLE	PORTFOLIO	REPORT OF
Adoption of the Central Lancashire Memorandum of Understanding on Housing Provision and Distribution	Cabinet Member for Planning, Regeneration and City Deal	Director of Planning and Property

Is this report a KEY DECISION (i.e. more than £100,000 or impacting on more than 2 Borough wards?)	Yes
Is this report on the Statutory Cabinet Forward Plan ?	Yes
Is the request outside the policy and budgetary framework and therefore subject to confirmation at full Council? This should only be in exceptional circumstances.	No
Is this report confidential? If Yes , insert details of the relevant exclusion paragraph(s). These are listed in the Constitution Part 4, page 25 (Access to Information Procedure Rules)	No

PURPOSE OF THE REPORT

1. To approve the Memorandum of Understanding and Statement of Co-operation (Relating to the Provision and Distribution of Housing Land) which has been subject to consultation.

RECOMMENDATIONS

2. It is recommended that Full Council:
3. Approve the Memorandum of Understanding and Statement of Co-operation between the Central Lancashire authorities as set out in Appendix 2 of this report, to take effect immediately following the approval by Preston City Council, South Ribble Borough Council and Chorley Council;
4. Delegate authority to the Deputy Chief Executive to amend the revised Memorandum of Understanding and Statement of Co-operation by way of minor alterations which do not effect the substance or general content of the said document prior to it taking effect;

5. Note that on the date of effect, the Memorandum of Understanding and Statement of Co-operation will be implemented for Development Management purposes in the determination of planning applications; and
6. To agree the preparation of a single five year housing land supply for the purposes of determining planning applications & appeals which will include sharing information about specific sites.

EXECUTIVE SUMMARY

7. This report seeks approval of the Memorandum of Understanding and Statement of Co-Operation in relation to housing numbers across Central Lancashire. The Memorandum of Understanding has been subject to a consultation period, which is detailed in this committee report. All relevant documentation is attached at Appendix 1 and 2.

CORPORATE PRIORITIES

8. The report relates to the following corporate priorities:

Excellence and Financial Sustainability	
Health and Wellbeing	
Place	x

Projects relating to People in the Corporate Plan:

People	
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BACKGROUND TO THE REPORT

9. The first MOU for Central Lancashire was prepared and adopted in 2017 following the publication of new housing evidence, namely the Strategic Housing Market Assessment (SHMA). The SHMA produced a housing need and distribution which reflected the existing distribution of housing as specified within policy 4 of the Central Lancashire Core Strategy 2012. Further, as the aggregated annual housing need identified within the SHMA exceeded the figure within policy 4, it was appropriate at that time that the three councils should commit to continuing the annual housing distribution of 417, 417 and 507 for Chorley, South Ribble and Preston Councils respectively.
10. The more recent introduction of the Standard Housing Method for Local Housing Need by the government has changed how the annual housing requirement is to be calculated.
11. In February 2019 the Government published a revised National Planning Policy Framework (NPPF). This requires Local Planning Authorities to assess the minimum number of homes needed through a local housing need assessment conducted using a standard methodology. Furthermore, the revised NPPF states that where strategic housing requirement policies are more than five years old, the five year supply of deliverable housing ought to be assessed against the local housing need assessment. In October 2019, the Central Lancashire Housing Study by Icenl was published.

12. The Draft new MoU was considered by Full Council in November 2019. Although the adoption of the MoU was delegated at that meeting since then the consultation period has been extended and the other two Central Lancashire authorities have decided to send the report of the consultation to their respective Full Council meetings. For the sake of consistency the final MoU and the report of consultation is now being referred back to Full Council.

PROPOSALS

13. The relevant development plan policy relating to the supply of housing in Central Lancashire was adopted in 2012, the Central Lancashire authorities proposed to apply the standard method formula to calculate the aggregate minimum number of homes needed across the area. This is in accordance with the National Planning Policy Framework and National Planning Practice Guidance.

14. The standard method housing requirement figure for the Central Lancashire equates to 1,026 per annum (provision of 18,268 dwellings over the period 2018 -2036) - it is recognised this is a minimum figure.

15. This would be achieved by a **Joint Memorandum of Understanding (MOU)** and **Statement of Co-Operation (SOC)** and when approved the Councils will work together to monitor housing completions and five-year housing land supply positions against these requirements.

16. The three Councils intend to implement a distribution of housing based on robust evidence. The evidence contained within the Central Lancashire Housing Study produced by consultants Icenl recommends that the most appropriate distribution of the minimum number of homes needed in the area is as follows, this will be reviewed as the new local plan emerges and the spatial development policies are prepared.

Preston City Council	40%
South Ribble Borough Council	32.5%
Chorley Council	27.5%
Total	100%

17. This results in a local annual housing need of 1,026 dwellings per annum, comprising

- 410 Homes per annum in Preston
- 334 Homes per annum in South Ribble; and
- 282 Homes per annum in Chorley.

18. This is intended to provide an interim basis for agreeing how the HMA's housing needs might be distributed.

19. Once the Memorandum of Understanding is approved the three councils will set out the 5 year forwarded looking supply and calculate each council's 5 year supply position in line with the distribution set out in the Memorandum of Understanding at paragraph 11. At 31 March 2019 the 5 year supply for Chorley is 6.6 years, Preston City Council 7.4 years and

South Ribble Borough Council 11.4 years. A copy of the Memorandum of Understanding can be found at Appendix 1.

Consultation Carried Out and Outcome of Consultation

20. The Central Lancashire Authorities consulted on the revised Joint Memorandum of Understanding over a period of 7 weeks. The first consultation was between 4th November 2019 and 15th November 2019 (2 full calendar weeks, 10 working days). Feedback from this initial consultation suggested the consultation period was too short. These comments were taken on board. The consultation was re-opened between 9th December 2019 and 13th January 2020 (5 calendar weeks, 22 working days).
21. The following stakeholders were consulted for both consultations:
- Developers and agents (as registered on the Central Lancashire Developer Forum Mailing List)
 - All Parish Councils within Preston, South Ribble and Chorley;
 - All Elected Members with Preston, South Ribble and Chorley;
 - All County Councillors representing Preston, South Ribble and Chorley.
22. The Consultation was also publicised on the Central Lancashire Planning Policy Team website and on the websites of the 3 Central Lancashire Authorities.

Responses Received to the Consultation

23. A total of 37 responses have been received to the consultation on the MOU and Statement of Consultation including members of the public, parish councils, councillors, neighbouring authorities, housebuilders, agents and organisations. 27 of these were received during the initial consultation, and 10 further responses were received during the 2nd consultation. In addition to this, three additional responses were also received during the 2nd consultation which provided additional or replacement comments to previous submissions. The full list of respondents is shown at Appendix 2.
24. Of the 37 responses received 5 generally supported the approach, whilst 32 put forward comments covering a number of key issues/themes, as shown at paragraph 16 of this report. Further analysis of the responses showed that 5 responses agreed with the proposed housing distribution, 22 responses disagreed, and the remaining 10 did not clearly specify either way. 18 responses disagreed with the adequacy of the consultation (e.g. length/methodology etc.), whilst 19 responses didn't clearly specify either way. 18 responses also raised concerns that the evidence base was not sufficiently robust to justify the proposed distribution, whilst 19 didn't clearly specify either way.
25. The key themes identified in the consultation are shown below. These issues are expanded upon in the Response Document at Appendix 2, with an Officer response to each issue raised.
- **Failure to consult properly:**
 - The consultation fails to meet the Sedley principles (meaningful & fair);
 - The length/period of consultation was inadequate;
 - The scope of the consultation / number of people consulted was insufficient and unjustified; and
 - The purpose / intention of the consultation was confused and unclear.

- **Pre-determination of the outcome of consultation:**
 - Insufficient time was allowed for to consider the responses to the consultation before decisions to adopt the MOU were made at the Cabinet(s);
 - Adoption of the MOU would conflict with the current stage of the Local Plan and would pre-determine the outcome of the Issues and Options consultation.

- **The soundness of the new Local Plan will be brought into question.**
 - Any new housing requirement should be set out in Local Plan policies and have been subject to examination, and sustainability appraisal. An “MOU” circumvents this approach and is not the correct procedure for decisions which will result in policy consequences. It is unlawful promulgation of policy (which ought to be within a DPD), through an unrecognized, non-statutory mechanism.
 - An MOU is not the correct procedure for decisions which result in policy consequences and is therefore unlawful.
 - PPG refers instead to a Statement of Common Ground (SOCG), which has to include certain elements.

- **The housing need/requirement/distribution set out in the MOU is not in accordance with either an up to date Local Plan or the standard method.**
 - Exceptional circumstances to deviate from the standard method (the MOU is a deviation) have not been demonstrated, and it is therefore unlawful.
 - The MOU cannot be used for measuring five year housing land supply, or the Housing Delivery Test.

- **Failure to establish a true housing “requirement”**
 - The MOU is only a partial review - there is a lack of robust evidence to justify the overall housing need for Central Lancashire, or to justify the re-distribution to/from each individual district.
 - The Local housing need figure should be a “policy off” figure for each Council – not a “policy on” figure which has incorrectly considered policy constraints when assessing housing need (a local housing need figure must be derived without the application of any additional exercise of policy).
 - The assumption that Central Lancashire still operates as a single HMA needs to be re-visited.

- **The proposed housing distribution is imbalanced and unjustified.**
 - The identified housing need is too low & needs increasing - for Central Lancashire as a whole, and for the individual districts (Chorley in particular).
 - It is contrary to the Core Strategy and national policy.
 - The standard method for assessing local housing need only provides a minimum starting point in determining the number of homes needed in an area. The housing needs are greater than the standard method indicates.
 - Consideration should be given to growth strategies and strategic infrastructure projects such as the City Deal, etc.
 - A lower figure than the Core Strategy will stifle sustainable economic growth and does not align with the growth ambitions of the LEP & the City Deal etc.
 - A lower figure will also render Policies 1 and 4 out of date, which will engage the tilted balance in favour of sustainable development for decision taking.

- **The MOU does not adequately take into consideration key elements** such as;
 - Historic under-delivery;
 - Meeting un-met need from other areas; affordable housing need (especially where it is most needed, e.g. Chorley); and

- Specialist housing such as homes for older people, etc.
 - There is also a need to concurrently bring forward alternative avenues to home ownership, and
 - Further evidence is needed in terms of the scale and geography of demand.
- **The Councils should not rely on the Pear Tree Lane appeal decision.**
- Further, the more recent Chain House Lane appeal decision does not take precedence over all other appeal decisions.
 - **Brownfield land has not been adequately considered.**
 - **There are inaccuracies in the Icen report.**

Memorandum of Understanding for Adoption

26. The Memorandum of Understanding and Statement of Co-operation (Relating to the Provision and Distribution of Housing Land) for approval is shown at Appendix 1.
27. There is a risk that if the MOU is not approved by the Central Lancashire Councils, it will be difficult to control the amount of development in an area and therefore officers will not be able to rely on a combined Central Lancashire 5 year housing supply to determine planning applications.
28. In taking this option the Central Lancashire authorities should secure greater planning control over development that is not in accordance with the development plan. In addition, in order to accord with the Framework and Planning Practice Guidance, it is considered a three-stage process to housing need and distribution, in a joint plan-making area, ought to be taken i.e. firstly identifying each local authority's minimum need, secondly aggregating that and thirdly distributing that across and between the relevant Local Authorities.

FINANCIAL IMPLICATIONS

29. Please see the comments from the Statutory Finance Officer below.

LEGAL IMPLICATIONS

30. Please see the comments from the Monitoring Officer below.

AIR QUALITY IMPLICATIONS

31. There are no air quality implications to this report.

COMMENTS OF THE STATUTORY FINANCE OFFICER

32. The development of the Memorandum of Understanding and Statement of Co-operation between the Central Lancashire authorities is part of the Central Lancashire Local Plan work. The council's share of the costs of this work is budgeted for in the Local Plan revenue budgets.

COMMENTS OF THE MONITORING OFFICER

33. A number of issues have emerged from the consultation exercise that has been carried out. One issue relates to the consultation process itself –it is alleged that in the circumstances it was inadequate for what it was trying to achieve. Clearly it must be pointed out that the consultation period was expanded. Further the exercise carried out was extensive and robust. Hence it is not considered that this criticism is reasonable or fair.
34. Likewise, the criticism of pre determination seems hard to fathom. It is only now that the Council is being asked to make a final decision.
35. It is difficult to see how the proposed MOU will impact on the soundness of the Local Plan. The use of MOUs in these circumstances is not unusual. It is an interim measure to deal with the situation as of today. It will not prejudice or predetermine the Local Plan coming forward. This approach we have done in the past.
36. Clearly there are a number of other criticisms articulated. They will not be addressed individually in these comments. Please though see Appendix 2 which does set out a thorough response to all the issues raised. Speaking generally – and by way of conclusion - on balance it is considered that the councils have acted in a balanced, reasonable and proportionate manner.

OTHER IMPLICATIONS:

▶ HR & Organisational Development	None
▶ ICT / Technology	None
▶ Property & Asset Management	None
▶ Risk	None
▶ Equality & Diversity	None

BACKGROUND DOCUMENTS

There are no background papers to this report.

APPENDICES (or There are no appendices to this report)

Appendix 1 – Central Lancashire Memorandum of Understanding
 Appendix 2 – Responses Report to Consultation

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