

WYRE BOROUGH COUNCIL LOCAL PLAN**SCHEDULE OF MATTERS, ISSUES AND QUESTIONS****Response to the Inspector's Main Issues and Questions****Made on Behalf of Associated British Ports (Representor ID: 0299)****April 2018****Matter 8: Allocations – Fleetwood, Thornton and Norcross****Preamble**

- 8.1 On behalf of our Client Associated British Ports ("ABP"), we write to provide comments in response to Wyre Borough Council's ("the Council's") submitted Local Plan.
- 8.2 ABP is the largest ports group in the UK and owns and operates 21 ports in England, Scotland and Wales. The company handles approximately a quarter of the country's seaborne trade and has a statutory duty to operate and provide port facilities. The Port of Fleetwood within Wyre Borough represents one of ABP's ports and therefore our Client welcomes the opportunity to participate in the examination of the Local Plan

ABP's Land Interests in Wyre

- 8.3 ABP's land interests in Fleetwood comprise:
- Land at Wyre Dock and the Marina ("Dock and Marina"); and
 - Land at the Port ("Port Area").
- 8.4 The focus of ABP's business is on increasing revenues and they therefore remain committed to the Port of Fleetwood. Decisions by ABP to declare port land as non-operational are only taken in light of strong evidence of long-term trends and after strategic review. In the case of its wider land interests in Fleetwood, much of the area has been transformed by new housing, including the successful residential development by Redrow and Persimmon (known as Harbour Village), by retail development (The Freeport Shopping Village), a Marston's Public House and a 450-berth marina. There is also a resolution to grant planning permission

for a fish processing business park subject to signing a S.106 agreement (application reference: 15/00457/OULMAJ). Although the proposed investor has now withdrawn from the project, ABP remain committed to the site and believe a new scheme on the site is possible in a similar form. This will seek to retain fish processing jobs in Fleetwood and help unlock the development potential of the Dock and Marina.

- 8.5 ABP proposes further high-quality development within its landholdings that is able to provide a flexible range of uses such as commercial (including industrial uses), retail, leisure, tourism and residential. By consolidating uses in this way, ABP will reinvigorate its landholdings and build on existing economic activity as well as contributing to other development needs in the Borough.
- 8.6 It is against this background that ABP requires flexibility from the planning process and as such, is keen to ensure that the Local Plan is as flexible and positively prepared as possible with respect to the company's landholdings at Fleetwood.
- 8.7 Having examined the Inspector's Matters, Issues and Questions the relevant areas of the examination are Matters 1, 2, 3, 4, 6, 7 and 8. However we are choosing to provide Hearing Statements relating to Matters 6 and 8 only. As a result of this we would ask that the Inspector reads our representations to the Publication Draft of the Local Plan which provides comments relating to the other matters.
- 8.8 Matter 8 relates to the specific allocations put forward on ABP's landholdings. We answer the relevant questions below. Overall ABP supports the identification of their landholdings as future development sites but has a number of concerns regarding the details of the associated policies. We detail these in our responses below.

4. Fleetwood Docks and Marina (SA3/1)

4.1 Is the Council satisfied that flood risk and biodiversity issues can be mitigated such that the site can be delivered and development would be acceptable?

- 8.9 Policy SA3/1 notes that areas of the site fall within Flood Zones 2 and 3. This is unsurprising given the site's location. The policy text makes it clear that mitigation measures are required in relation to flood risk and a Flood Risk Assessment ("FRA") needs to be undertaken at the planning application stage which includes the setting of finished floor levels to take into

account the relevant flood risk (plus climate change). Given the uses proposed the site would also have to pass the sequential and exceptions test.

- 8.10 Overall, we would regard this as an appropriate response, although we would question the need to have such a specific criteria within Policy SA3/1 given the requirement to undertake an FRA in these circumstances is enshrined in national planning policy and guidance and so its repetition here could be seen as superfluous.
- 8.11 It is noted that issues relating to flood risk are also covered in the Council's Local Plan evidence base which includes a Strategic Flood Risk Assessment ("SFRA") (Levels 1 and 2) (document references: ED110 – ED113) which thoroughly assess issues of flood risk in relation to proposed site allocations. In particular the Level 2 SFRA Sequential Test Paper (document ED113) undertakes this roll. In relation to the Docks and Marina the document notes the extensive provision of flood defences in an around the site. It also notes that given the lack of suitable and available alternative sites for employment and housing in Fleetwood that the site can be regarded as 'sequentially appropriate' (this also ties in with the Site Allocations Background Paper ED12). ABP agrees with this stance given the regeneration benefits for Fleetwood that would take place through the development of the site, which in turn will help the Borough meet its housing and employment land requirements.
- 8.12 Overall, given the defences in place already, the SFRA concludes that the medium-low risk of the site coupled with its sustainability benefits, the site can be seen as having passed the first part of the exceptions test. Again, we endorse this and believe this sets the relevant context for undertaking site specific flood risk work as part of a future planning application.
- 8.13 In terms of biodiversity, Policy SA3/1 notes that the site is located adjacent to a Special Protection Area ("SPA"), Ramsar Site and Site of Special Scientific Interest ("SSSI"). As part of the Council's evidence base, a Habitat Regulations Assessment ("HRA") has been undertaken (document reference: SD006). This considers the Docks and Marina site and refers back to the Appropriate Assessment undertaken to support the current adopted Area Action Plan for the area. Table 13 of the HRA lists potential impacts and mitigation and it is noted that taking this into account there would be no residual effects associated with the development of the allocation.
- 8.14 Whilst ABP believes that relevant ecology work at the planning application would be able to more precisely identify relevant mitigation measures, the evidence base undertaken should provide the Inspector with enough comfort that biodiversity issues can be addressed.

4.2 Is the mix of uses and extent of the allocation appropriate?

- 8.15 As outlined above, whilst ABP support the identification of the Docks and Marina as a mixed-use allocation, we object to the current suggested mix of uses and extent of the allocation.
- 8.16 The boundaries of the allocation include existing uses such as the Freeport Shopping Village as well as land which, whilst owned by ABP, is being held on a long lease. We would question the need for the Freeport Shopping Village to be featured in the allocation given that there are no specific development proposals in this area. Its inclusion can therefore be seen as superfluous. We would also wish to see additional areas which are not subject to ABP's control to be removed so as to aid the delivery of development in the area and avoid the issue of multiple ownerships. In this respect the allocation boundary needs to be drawn so that it is consistent with the land shown in **Appendix A** of this document. This has been presented previously in the representations made to the Publication Draft of the Local Plan and we would again request that the boundaries of the allocation are amended to reflect this. Currently as it stands we believe the boundaries to be unsound on the basis of being unjustified, ineffective and not positively planned.
- 8.17 The area around the Docks and Marina is currently subject to an allocation within the adopted Fleetwood-Thornton Area Action Plan ("AAP"). The AAP itself was put together as part of a collaborative approach between the Council and ABP. In terms of the general mix of uses, ABP would like to see the principles of the AAP translated into the Local Plan allocation. We note that the current modifications to the Local Plan (document reference: SD004) have sought to widen the range of uses to the following:
- Housing;
 - Non-retail commercial;
 - Leisure;
 - Tourism; and
 - Employment.
- 8.18 Whilst this broadened mix of uses is acknowledged (and is partly in line with our comments made to Publication Draft), ABP still have strong concerns regarding the mix of uses as it believes the Dock and Marina offers a great development potential over the plan period and the site lends itself to a number of suitable and sustainable uses. The allocation should therefore reflect this and be flexible enough to allow a number of development options to be explored. We therefore believe that the following should be added to the mix of uses:

- Retail provision (where it is shown that it would not undermine the vitality and viability of Fleetwood Town Centre); and
- Associated community facilities.

8.19 The addition of these uses would further reinforce the site's excellent sustainability credentials and would be consistent with paragraph 14 of the NPPF. The policy could include sufficient criteria to ensure that any main town centre uses would not undermine the health of Fleetwood Town Centre.

8.20 We therefore believe the current approach to the mix of uses is unsound in not being positively planned or effective and that the proposed additional uses would ensure a sound approach to the allocation.

8.21 Given that the plan period runs until 2031, then it is important that any future allocation relating to the site is sufficient flexible in nature so as to be able to adapt to changing economic circumstances.

8.22 In this respect we also believe that of the uses proposed, any capacity expressed should be seen as indicative/approximate with the final amount to be determined through the development management process. For residential uses we believe this to be important as any housing on the site could take a variety of forms (including apartments) and so there is potential to provide a higher housing number than the 120 units expressed in the policy. We also believe this would be a positive step by the Council and assist them in delivering the housing that is required over the plan period.

8.23 Likewise, for employment uses flexibility is also needed. Whilst there is a resolution to grant planning permission for the Fish Park, and fish processing on the site is still supported by ABP in principle, given that the investor for the current Fish Park scheme has now withdrawn, proposals for fish processing on the site will need to be revisited in the future. As such, a degree of flexibility is needed for this. More generally, the amount of employment land take-up as whole will very much depend on market demand over the plan period and so this further underlines the need for a sufficiently flexible policy response.

8.24 As a result of this, to ensure that the policy is sound by being effective, positively planned and consistent with national policy, a clause should be inserted into SA3/1 to make clear that such a flexible approach can be made for the proposed uses so that the development on the site does not have to rigidly stick to the capacity detailed in the policy.

8.25 It is also noted that a Green Infrastructure designation falls into the southern part of the site (around the area of the proposed Fish Park). To further ensure the soundness of the allocation, it needs to be made clear that this will not hinder development coming forward on this part of the allocation, as this land is crucial to the delivery of the wider allocation.

4.3 Are all key development considerations necessary and clear to the decision maker?

8.26 As outlined in our representations to the Publication Draft, ABP strongly questions a number of key development management considerations. Of particular concern is Criterion 1 and the requirement for a masterplan to be made for the whole site. Whilst the logic of this is understood in some respects, the criterion presents a number of fundamental problems including:

- The boundary of the allocation including land not in ABP's control, thus making it more difficult to undertake a comprehensive masterplan; and
- The procedure of the masterplan process is unclear. For instance, does this need 'approval' prior to a planning application or can be submitted as part of a planning application? There is also not mention of phasing which will be crucial to the delivery of the site.

8.27 We therefore believe that to make the policy sound, the need for a masterplan approach should be considered as part of planning application on the site and that such an approach to providing a masterplan should be sufficiently flexible so as to deal with changing circumstances throughout the plan period. ABP envisage that this should be in the form of a dynamic masterplan that can be treated as a 'live document' and be updated and refreshed throughout the plan period. As the current plan period is up to 2031, ABP requires that any masterplan for the site allows amendments to the masterplan to be considered to ensure that it remains deliverable over the remaining period of the plan. A dynamic masterplan would help achieve this and would ensure consistency with paragraph 14 of the NPPF which emphasises that Local Plans need to be flexible in nature.

8.28 As outlined in our representations to the Publication Draft, ABP would want to avoid the situation whereby a masterplan is agreed early on in the plan period, but wider circumstances then change which may make areas of the site not viable or deliverable but the policy is too restrictive and does not allow these areas to be revisited. Similarly, the flexibility should allow appropriate phasing of development whereby earlier deliverable parcels of land can be brought forward as applications on their own (but in accordance with

a general flexible masterplan) as these then have the potential to then assist in delivering subsequent uses of the site.

- 8.29 We therefore believe a new approach is needed that is less ambiguous in nature and is flexible in nature. This would ensure the policy is sound by being positively prepared and effective.
- 8.30 ABP also continue to have concerns regarding Criterion 3 of the policy. This appears to require specific measures in terms of landscaping, green infrastructure and connectivity. Whilst we would not dispute that these are important considerations, the current approach is too specific and could prejudice any future masterplanning exercise for the site. As such we believe this criterion is unsound on the basis of being ineffective and not planned positively. We would therefore seek its removal as requirements in terms of quantum of green infrastructure, design and connectivity should be adequately covered by general development management policies and prevailing national policy at the time of consideration.
- 8.31 We note within the Inspector's Preliminary Questions to the Council (document reference: EL1.001a) that there is a query about the need of including some of the key development considerations as they are repeated from elsewhere in the document. We would concur with the Inspector in this case and note for Policy SA3/1, Criteria 4, 8, 9 and 10 (from document reference SD004) are unnecessary and they simply replicate development management requirements that are outlined in national planning policy and elsewhere in the Local Plan. In a similar manner Criteria 5 and 7 can be detailed at the planning application stage. Currently the inclusion of these criteria could be construed as unsound on the basis of being unjustified and the Council should reconsider their inclusion.

5. Fleetwood Port (SA5)

5.1 Is the Council satisfied that flood risk and biodiversity issues can be mitigated such that the site can be delivered and development would be acceptable?

- 8.32 In terms of flood risk, please see our response to Question 4.1 above. The same principles apply in the case of Policy SA5 and it is noted that the SFRA (document references: ED110 – 113) highlights that development is acceptable here subject to providing finished floor levels at the appropriate height and undertaking a sequential approach to the site layout. Given that this is the existing Port in the area and economically important to the Borough, then

there are no alternative sites and subject to appropriate mitigation, flood risk issues can be addressed.

- 8.33 For biodiversity issues, the site is subject to the same designations as the Docks and Marina. The HRA which has been submitted as part of the Local Plan's evidence base (document reference: SD006) highlights that as the policy seeks to retain/safeguard port related development, then this sits outside the scope of the Local Plan and that the development would need to be considered separately with its own feasibility studies and HRA, if required. ABP deems this a sensible and robust approach which demonstrates biodiversity issues are capable of being addressed and allowing further work if this is required.

5.2 Is the mix of uses appropriate?

- 8.34 Similar to our response to Question 4.2, we believe that the boundaries of SA5 need re-examining. ABP's ownership is contained in **Appendix A** of this document. Specifically, we note that the south western boundary is not showing the link to Dock Street which forms part of ABP's ownership and is a connection to the public highway. This needs to be rectified to ensure that the allocation is sound on the basis of being effective and positively planned.
- 8.35 As outlined in the Preamble of this Hearing Statement, ABP remaining committed to the Port of Fleetwood and so in principle they support the allocation identified. However, our Client does believe further changes should be made to the policy which acknowledge that if circumstances were to change over the plan period, that the policy is flexible enough to allow ABP to consider other uses on port land.
- 8.36 It is noted that currently the policy highlights that 7.6 hectares of land identified is for port-related development within use class B1, B2 and B8 and that other non-retail commercial and residential development will be supported where it is demonstrated that it will not prejudice the long-term operation of the Port. However, to ensure the policy is sound on the basis of being effective and positively planned, the reference to other uses should also cover instances where it is proven that the continuation of port-related uses is no longer viable. This would take account of circumstances that could change over the lifetime of the plan. In addition to this, any quantum of land identified should be indicative to allow for flexibility. The reasons for this is similar to our response to Question 4.2 in that the amount of employment land take-up as a whole will very much depend on market demand over the plan period and this will particularly be the case for port-related activities which are likely to be more susceptible to global fluctuations in trade.

5.3 *Are all the key development considerations necessary and clear to the decision maker?*

- 8.37 In a similar manner to our response to Question 4.3, ABP believe that some of the key development considerations are superfluous. A number of these are simply factual statements (Criteria 1, 6 and 7 of document SD004) and so we would strongly question why they would need to be included and indeed their inclusion could be seen as being unsound on the basis of being ineffective. We note in this respect the Inspector's Preliminary Questions (document reference: EL1.001a) raise similar concerns.
- 8.38 Similarly, criteria that relate to specific requirements (eg. Criteria 2 and 4) are covered by other Local Plan policies and national policy and so are also superfluous. We would therefore question their inclusion too.

8. Infrastructure

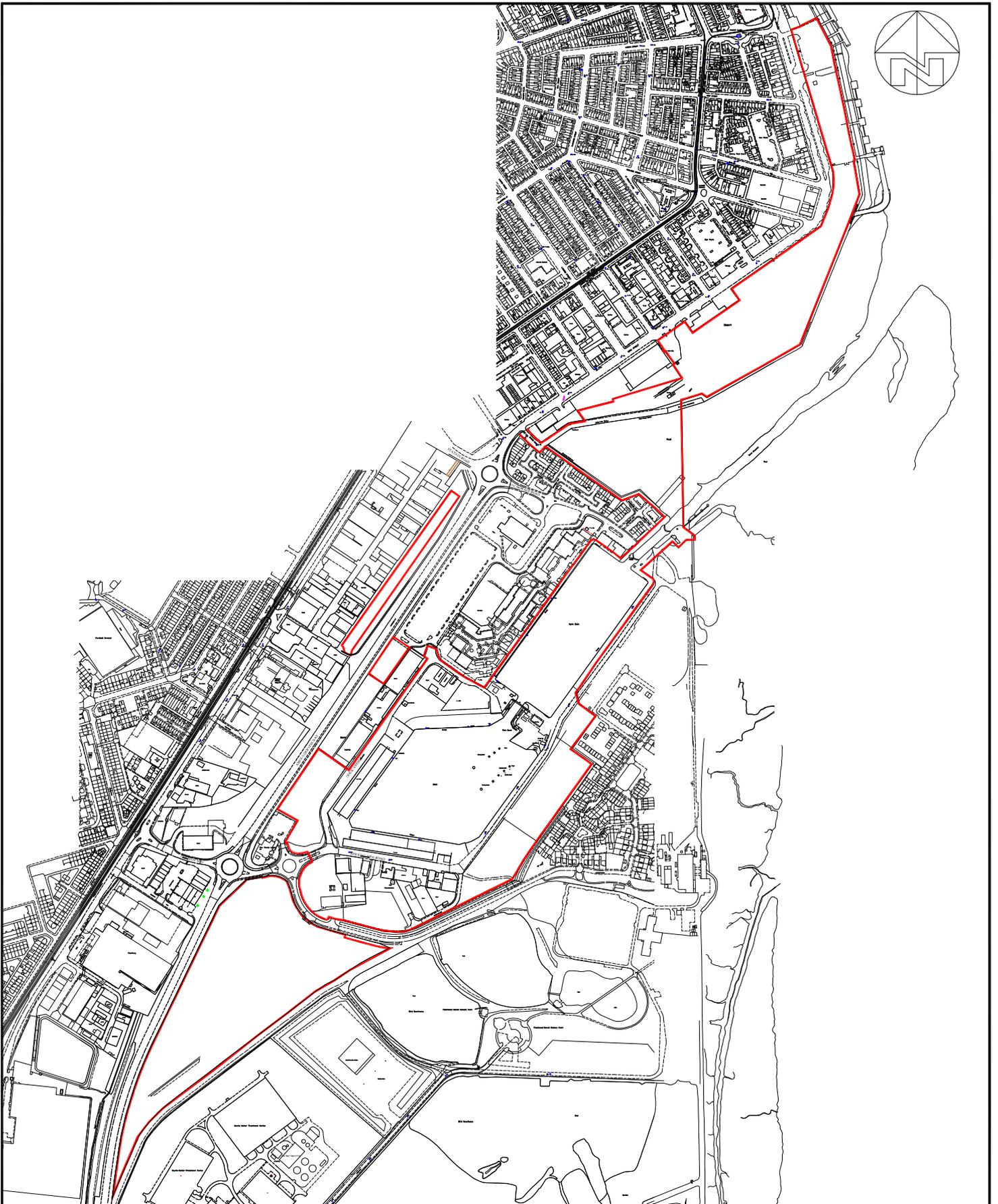
8.1 *Will infrastructure to support the scale of development proposed in the settlements be provided in the right place and at the right time, including that related to transport, the highway network, health, education and open space?*

- 8.39 ABP note that issues regarding infrastructure are principally contained in Policy SP7 of the Local Plan. Our comments on the Publication Draft of the Local Plan highlighted our concerns relate to Part 4 which we believe to be unsound on the basis of being ineffective. Instead a more flexible approach to Infrastructure provision should be provided which examines each site on a case by case basis with appropriate phasing put in place. This in itself can still relate to the Infrastructure Delivery Plan (document reference: ED004).
- 8.40 We believe this will ensure that the correct infrastructure is provided at the right time to support the Borough's growth.

9. Delivery

9.1 *Are the assumptions about the rate of delivery of houses from the allocations realistic?*

8.41 ABP believes the site delivery assumptions for both of its land interests are reasonable and sufficiently flexible as expressed in Policies SA3/1 and SA5. It looks forward to discussing these further at the examination



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