

Walney Extension Off-Shore Wind Farm – Proposed Planning Performance Agreement (PPA).

EXECUTIVE MEMBER: Councillor Elaine Woodburn
LEAD OFFICER: John Groves
REPORT AUTHOR: Denice Gallen

WHAT BENEFITS WILL THESE PROPOSALS BRING TO COPELAND RESIDENTS

The proposed development will extend the existing off-shore wind farm by approximately 149 Km² in a North, Northwest direction bringing the development closer to the Copeland shore line and visual sphere of influence.

Signing up to a Planning Performance Agreement (PPA) will ensure that DONG Energy pay for all reasonable costs and expenses incurred by the Council in contributing to the assessing their Development Consent Order (DCO) application.

The proposed development is a Nationally Significant Infrastructure Project and therefore will be decided through the submission of a DCO to the inspectorate who will make recommendations to the Secretary of State who will make the final decision on the application.

WHY HAS THIS REPORT COME TO THE EXECUTIVE?

(eg Key Decision, Policy recommendation for Full Council, at request of Council,etc.)

This report requires a key decision of the Executive to consider signing up to the PPA

RECOMMENDATION:

1. That Executive note the recent progress made in discussions with DONG Energy
2. That Executive support the proposal that Cumbria County Council act as accountable body for the Walney Extension Off Shore Wind Farm project and the Planning Performance Agreement (PPA) between Cumbria and Lancashire local authorities
3. That Executive supports the principle of the Council being a signatory/party to a Planning Performance Agreement with DONG Energy and the signing of the final document is delegated to the Corporate Director.

1. INTRODUCTION/BACKGROUND

- 1.1 The Project is an extension of the completed Walney offshore wind farm (sharing the Western boundary of the existing wind farm) the project will cover an area up to 149Km² and a generating capacity of up to 750MW. The site is located approximately 19 km WSW of the Isle of Walney coast in Cumbria, 26km SW from the Millom coast, and

31 km SE from the Isle of Man. The Project lies within English territorial waters and beyond, within the UK Renewable Energy Zone. The offshore cable(s) route landfall will be brought to shore at Heysham, where a generator build offer was accepted with the National Grid interface point at the Heysham 400kV substation.

- 1.2 The proposed development is within the sea and therefore the jurisdiction of the Crown Estate not Copeland Borough Council, therefore the Council is not what is known as a 'prescribed authority' under the planning guidance. However, as the development will be within 40km of Copeland we are within the Zone of Visual Influence (ZVI), therefore DONG Energy are consulting with the Council and the local community on the proposed development.
- 1.3 The purpose of this report is to seek Executive agreement to the joint working arrangements with Cumbria and Lancashire County and District Councils and the agreement to sign up to the proposed PPA.

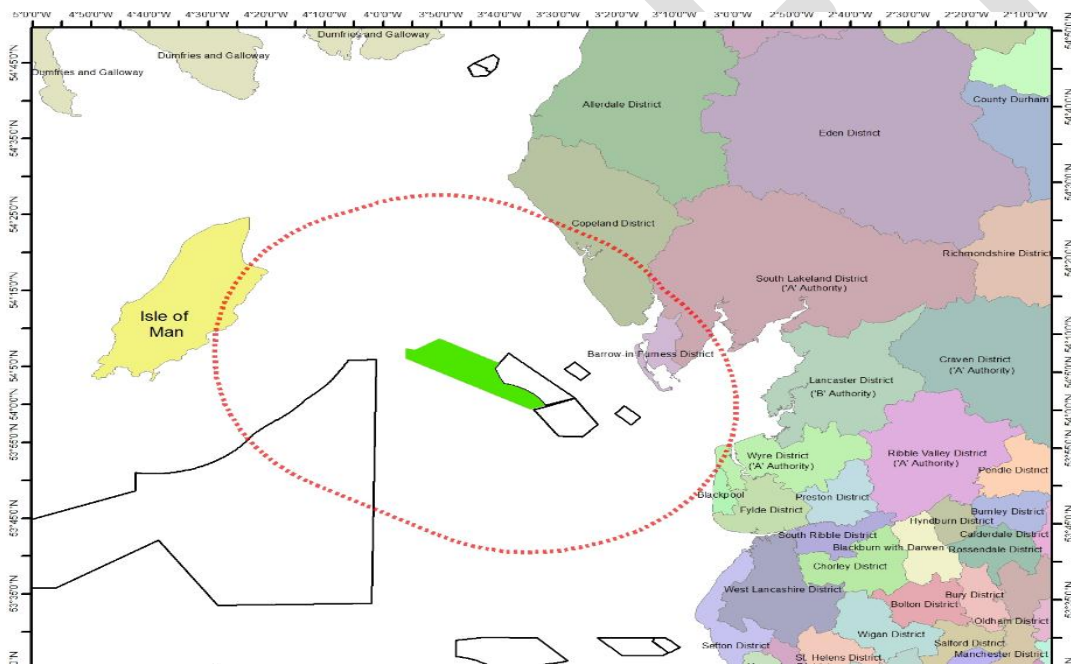
2. Walney Extension off Shore Wind Farm Planning Performance Agreement (PPA)

- 2.1 The developer has agreed to enter into a PPA with the Councils which the development passes through or which affects the areas for which the Councils are responsible. The councils that are intending to sign up to the PPA, subject to final revision of the wording are:
 - Lancashire County Council
 - Lancaster District Council
 - Copeland Borough Council
 - South Lakes District Council
 - Lake District National Park
 - Cumbria County Council (CCC)
- 2.2 It should be noted that Copeland Borough Council is the only authority that is considered to be a non-prescribed authority under the guidelines for consultation on a Nationally Significant Infrastructure Project. This is because no element of the project is located within the district or the neighbouring district. Several meetings with the developers have been held with a view to persuade them that the proposed development may have a significant impact on the area and therefore we should be entitled to be party to the PPA.
- 2.3 The PPA will fund the Councils assessment of the project. The developer will reimburse the Council for all officer time and reasonable expenses spent assessing the proposed development and feeding into the DCO process. Cumbria County Council (CCC) is the accountable body for the PPA.

- 2.4 The PPA includes provision that any party at any time may withdraw from the PPA by giving 10 working days' notice. If DONG Energy withdraws from the PPA it will pay actual costs as defined within the PPA that have been unavoidably incurred or committed by the Councils.
- 2.5 If the Council was not party to the PPA we would either have to finance the assessment of the application from existing budgets or alternatively not participate in the process.
- 2.6 DONG Energy has provided a letter of comfort, which states that they will pay all reasonable and agreed costs from the 4th July 2012 until the PPA is signed. Refer to Appendix 1 for full details.

3. Consultation process to date

The diagram below illustrates Councils that are directly affected / border the proposed development and those that are in the Zone of Visual Influence (ZVI).



- 3.1 The developer has had on going informal consultations in the Copeland area and to a limited extent with the Council. They held the first round of community consultation events in September 2011 with a second round of consultations events this September in Egremont and Millom. It has been requested that a further event be held at Seascale.
- 3.2 As the proposed development will come ashore via Lancaster District only that authority and the authorities which border it are considered to be prescribed bodies. Therefore it is important that the Council ensures that it is able to adequately represent the

potential concerns and challenges faced by Copeland as a result of the proposed development and that they are sufficiently addressed.

- 3.3 The developer proposing to extend the Walney Wind Farm, DONG Energy, have already undertaken formal Consultation with the Council under Section 42 of the Planning Act 2008, beginning 3rd Sep 2012, the formal consultation period ended on the 16th October. They also undertook wider public consultation simultaneously however the closing date for the public consultation is the 23rd November 2012.
- 3.4 The consultation involved providing feedback on the Preliminary Environmental Information (PEI) Technical Report and the non-technical summary. Copeland Borough Council officers provided feedback on issues including the visual impact of the proposed development, the overall cumulative visual impact, the overall project, noise and the adequacy of consultation carried out with the community.
- 3.5 A joint response to the consultation was submitted by all authorities that are party to the PPA. Consultants WYG were appointed by CCC to provide a review of the Shore Line Visual Impact Assessment (SLVIA) which has been assessed by a Copeland officer to ensure that it adequately represents the impact within Copeland.

4. WAY FORWARD

- 4.1 Dong Energy has provided an indicative programme of key dates. This programme demonstrates the level of work anticipated to be generated through the submission of the DCO. This includes the assessment of the Technical Reports due in November with a 6 week consultation period, the draft Environmental Statement in January and the submission of the DCO application in the first quarter of 2013.
- 4.2 Further to this submission it is anticipated that Copeland will have the opportunity to contribute to the Local Impact Report (LIR). Although non-prescribed authorities are not formally invited by the Secretary of State to submit a LIR it is envisaged that as Copeland has been part of the process the Council will contribute to the Shore Line Visual Impact Assessment (SLVIA) aspect of the LIR. This has been welcomed by the other prescribed authorities that are party to the PPA.
- 4.3 It should be emphasised that requiring the developer to provide funding through a Planning Performance Agreement should **NOT** be regarded as a means by which the developer can influence the decision by paying for the means by which it is administered. Local communities are entitled to have their interests represented as part of the planning process, and for those interests to be presented by their elected local authority. If through lack of resources Councils are disadvantaged from engaging then the democratic process would be argued to have been excluded. By being required to make the necessary resources available to Councils to fully engage, the

developers are simply doing the same as paying a planning fee. They are contributing to the costs incurred by Councils to determine major projects and nothing else.

5. GOVERNANCE ARRANGEMENTS

- 5.1 Cumbria County Council will act as the accountable body for the project. Thus Cumbria County Council would take on for example the responsibilities for project management, claiming funding from DONG Energy and co-ordinating resource input. Where specialist input may be required then this may need to be procured externally. However the expectation is that resources within individual local authorities could be utilised wherever possible.
- 5.2 In operational terms there is merit in continuing the joint project team arrangements that have been established with local authorities and DONG Energy officials meeting on a regular basis. The view has been expressed by DONG Energy that they envisage the creation of a Strategic Project Team (SPT) is established, where all those authorities who have signed up to the PPA are represented along with senior managers from DONG Energy.
- 5.3 Executive is requested to consider this joint working approach and recommend that Copeland Borough Council sign up to the PPA with authority to sign the final document delegated to the Corporate Director.

6. CONCLUSIONS

- 6.1 The DONG Energy Walney Island Offshore wind farm extension project is a Nationally Significant Infrastructure Project which will have a direct visual impact from a large section of Copeland shoreline.
- 6.2 In these times of austerity the Council is facing greater resourcing issues than ever before. Securing funding through a PPA is a means of ensuring that the Council is adequately resourced to assess and influence the DCO process.

7. WHAT ARE THE LEGAL, FINANCIAL AND HUMAN RESOURCES IMPLICATIONS?

- 7.1 There are resource implications for the Council the cost of which are intended to be recovered through the Planning Performance Agreement (PPA) with DONG Energy.

8. STATUTORY COMMENTS

- 8.1 S151 comments: - The PPA will provide a mechanism for the Council to recover the additional costs it will incur in the assessment of the project. It is understood that the developer will reimburse the Council for all officers time and reasonable expenses spent assessing the proposed development. The council is looking to reduce the risk of non-

payment by ensuring a project and programme approach and that the commissioning of this work is robust and agreed.

- 8.2 Monitoring Officer Comments: The Governance arrangement set out in paragraph 5 appear robust and protect the Council's position appropriately.
- 8.3 EIA Comments - No direct EIA comment to make although it is noted that Copeland Borough Council has made representations in respect of the developer's community consultation process and provided feedback on the overall project and the adequacy of community consultation. Furthermore it is noted that the Council also expects to have an opportunity to contribute to the Local Impact Report.
- 8.4 Policy Framework Comments - The proposals outlined within the report relate to the Council's current Corporate Plan 2011-12, relating in particular to the performance theme and the objective within that theme to transform services through new models for service delivery with other public, voluntary and private sector partners. Furthermore the report refers to joint working arrangements which the Council is committed to within the current policy framework and proposals relating to the future role of the Council currently out for public consultation.

9. HOW WILL THE PROPOSALS BE PROJECT MANAGED AND HOW ARE THE RISKS GOING TO BE MANAGED?

- 9.1 Cumbria County Council will take the lead role of project management, including managing risk, but with input from district authorities via the joint project team. Copeland Borough Council input to the proposals is currently being led by the Nuclear and Energy Officer and managed by Head of Service.

10. WHAT MEASURABLE OUTCOMES OR OUTPUTS WILL ARISE FROM THIS REPORT?

- 10.1 Agreeing to be party to the proposed PPA and an application for development consent to the Planning Inspectorate.

List of Appendices

Appendix 1 – Letter of Comfort from DONG Energy 19th Sep 2012

List of Background Documents:

Appendix 1: letter of Comfort from DONG Energy 19th Sep 2012



F.A.O. David Haughian
cc. Christine Wilson (Cumbria County Council)
Phil Megson (Lancashire County Council)
Andrew Drummond (Lancaster City Council)
Denice Gallen (Copeland District Council)
Eleanor Huddleston (South Lakeland District Council)
Chris Greenwood (Lake District National Park Authority)
Jason Hipkiss (Barrow in Furness Council)

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19th September 2012

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Walney Extension Offshore Wind Farm - Reimbursement of costs in relation to PPA

Dear David Haughian,

Further to our meeting regarding the Planning Performance agreement (PPA) on Wednesday 4th July 2012, I am writing to confirm that DONG Energy is prepared to pay for reasonable and agreed costs dating as of our last meeting and until the PPA is signed by your authority, for work undertaken to progress the Walney Extension Offshore Wind Farm. This will include work undertaken to progress the PPA itself and other relevant work undertaken which relates specifically to this Project and would fall within the scope of an agreed 'work package'.

Cliff Pullen confirmed verbally at the meeting that we are prepared to pay each authority separately on the basis of receiving and agreeing a list of involved officers' daily rates together with the submission of monthly timesheets in an agreed format. The content of these will be checked and signed off by DONG Energy as a true record of time spent on the project.

We confirm that incurred costs will be paid to authorities who are final signatories to the agreement and will be paid following the signing of this PPA. We would anticipate costs to include those reasonably incurred in direct relation to moving the PPA forward such as attendance at project team meetings and commenting on drafts. However we do not propose to cover costs associated with internal discussions or meetings you hold which relate to processes specific to your authority. As discussed at the meeting we anticipate pre-signed PPA costs either being included for payment within a specific work package for that purpose or being subsumed into one of the work packages currently being drafted by the project team. For budgetary purposes I should be grateful if you could please provide me with an estimate of fees likely to be incurred by your authority during this time.

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Registered office:
c/o Watson, Farley & Williams LLP
15 Appold Street
London EC2A 2HG, United Kingdom



We look forward to continuing to work with you on this project and working toward successful completion of the PPA.

Yours sincerely,

DONG Energy

A handwritten signature in blue ink, appearing to read "Cliff Pullen".

Cliff Pullen

Project Development Manager
Walney Extension Offshore Wind Farm

DRAFT