

**COPELAND BOROUGH COUNCIL: EXAMINATION OF THE COPELAND CORE
STRATEGY AND DEVELOPMENT MANAGEMENT POLICIES**

**WRITTEN STATEMENT PREPARED BY TURLEY ASSOCIATES ON BEHALF OF REG
WINDPOWER LTD**

**HEARING AGENDA MATTER 11: DEVELOPMENT MANAGEMENT POLICIES (DM1 –
DM30)**

REPRESENTOR NUMBERS: 79

HEARING DATE: 12 APRIL 2013

Introduction

This Statement is provided by Turley Associates (TA) on behalf of REG Windpower Ltd ('REG'). It responds to the questions asked by the Inspector in respect of 11: Development Management Policies (DM1 – DM30).

The principal questions of relevance to REG's previous submission are questions 1, 9 and 10, which state:

- 1. Is policy DM2 on renewable energy unduly restrictive and inconsistent with the NPPF?*
- 9. Are the changes suggested by Millom Parish Council covering policies DM10 / 15 / 25 / 27 / 28 necessary to make the plan sound?*
- 10. Would the changes proposed to policy DM27 ensure the policy on Built Heritage is compatible with the NPPF?*

1. Is policy DM2 unduly restrictive and inconsistent with the NPPF?

REG submitted representations to the Regulation 20 consultation on Policy DM2, which assert that the policy as drafted is unsound as it is inconsistent with the Framework. REG's objection stems from the fundamental inconsistency of the policy's wording with that of paragraph 98 of the Framework, which clearly sets out how the impacts of development should be approached (i.e. to approve applications if impacts are (or can be made) acceptable).

Paragraph 10.2.5 of the Submission Draft confirms Policy ST2 outlines the spatial strategy for energy developments in the Borough and Policy ER2 provides a positive statement to support and facilitate new energy production from renewable sources. REG have submitted representations and Hearing Statements in relation to these policies for Hearing Matters 4

and 5 on the basis that they are unsound as currently drafted. They do not therefore provide a positive framework upon which to base Policy DM2.

REG consider that while the Council's approach to renewable energy in Policies ST2, ER2 and DM2 (and indeed Policy ENV5, not specifically listed in the Inspector's Questions) are at least consistent with each other, they are in fact wholly at odds with the direction of the Framework set out in paragraph 98. REG agree it is appropriate to ensure that adverse impacts of development are addressed satisfactorily (Paragraph 97 of the Framework); however, the relevant Framework policy test to guarantee this objective, is to determine whether any impacts are (or can be made) acceptable. Acceptability of impacts in the context of on-shore wind development would, for example, be for identified noise impacts to comply with industry standards set out in ETSU-R-97 or to mitigate noise impacts to bring impacts within parameters defined within those regulations.

As stated in relation to Hearing Matter 4, which considers the Council's approach of "minimising" impacts and which the Council also seek to pursue in Policy DM2, this is a more rigorous policy test and it provides no certainty for developers as to how far to minimise impacts or indeed, when the Council may determine that impacts have been minimised. No justification has been provided by the Council to support this higher requirement

REG therefore refer to, and continue to advocate, the imposition of the substantial changes suggested to Policy DM2 and supporting text in paragraph 10.2.6 on pages 8 and 9 of their representations to the Regulation 20 consultation on the Core Strategy and Development Management Policies document.

Changes Proposed to Policy DM27 'Built Heritage and Archaeology'

Questions relating to Policy DM27 are set out in questions 9 and 10. Starting with Question 10, it asks whether the proposed changes to DM27 would be consistent with the Framework. REG have previously submitted representations on draft Policy DM27 and supporting paragraphs 10.5.10 – 10.5.11 and the Council have recommended minor modifications in response to their representations, which are considered below.

In summary, REG's previous representations asserted that Part B of the policy and Part D (iii) seek to resist all adverse impacts on scheduled ancient monuments and their wider settings or listed buildings, irrespective of the assessed magnitude. REG commented that this approach was not consistent with paragraph 132 of the Framework and that it was therefore unsound. Subsequently, the Council have set out a minor modification to confirm that it is only "significant" adverse effects that they would seek to resist outright.

When Parts B and D(iii) are re-read with this amendment, it does clarify the magnitude of impact that will be considered and the amendment is therefore supported by REG; however, Policy DM27 is still not fully consistent with the Framework, as paragraph 133 provides for the circumstance where the public benefits of development may outweigh the loss or substantial

harm caused to a designated heritage asset (albeit this should be exceptional). There is still no such provision within Policy DM27 as currently drafted (including the minor modification) and REG consider this additional provision of the Framework that should be expressed in relation to Parts B or D(iii), or alternatively, as a separate statement at the end of the policy.

The importance of taking this approach is that while REG agree that the loss of, or cause of substantial harm to, designated heritage assets should only occur exceptionally, that there may be circumstances where nevertheless it is justified. Not taking this in to account may unnecessarily preclude development overwhelmingly in public benefit, such as renewable energy projects.

Question 9 poses the question as to whether Millom Parish Council's proposed changes to a number of development management policies, including DM27, are necessary to make the plan sound. On first reading of their representations, which are provided in Core Document 1.11, they appear to be set out in sections corresponding to sections 1 – 7 of the Draft Submission document. They do not make any direct reference to Policy DM27 or section 10 of the Core Strategy and Development Policies document, nor did Millom Parish Council complete a representation identifying this intention. On further investigation, it transpired that when reviewing their comments, the Council took it upon themselves to attribute selected comments to that policy.

REG do not agree that Millom Council have actually sought to recommend any changes to Policy DM27 to make the plan sound. Nevertheless, their comments set out in relation to section 5 of the plan on 'Green Infrastructure' and considered under Response ID S114 of Core Document 1.3 have been reviewed and considered by REG.

It is noted that the Council in their response to Millom Parish Council's comments state the Core Strategy and Development Management DPDs deal with issues concerning heritage assets and surroundings in a manner appropriate for the purpose of protecting and enhancing the assets. Notwithstanding REG's above comments in relation to parts B and D(iii) of Policy DM27, REG generally concur with this assessment, with two key exceptions.

The Parish Council set out a number of considerations in their representations for historic landscapes and they do not define exactly what they mean by "*the integrity of historic landscapes*", nor do they state what an "*incongruous element*" might be. Despite this, REG do support the generally positive provisions for potentially allowing development where the benefits of the proposal clearly outweigh the negative impacts. As highlighted above, this is something the Council currently fail to do in Policy DM27.

Similarly, the Parish Council's proposals for the consideration of Scheduled Ancient Monuments do seem to provide for substantial harm to, or loss of, Scheduled Ancient Monuments in exceptional circumstances and where full assessments have been provided. Although it is not thought reasonable that, as they suggest, the Parish Council should be the

body to define the scope of such assessments, fundamentally their proposals do seem to provide for the possibility of planning permission being granted, which is a positive approach and which is something the Council currently fail to account for in Policy DM27.

It is therefore considered the Parish Council's points actually lend some support to REG's comments and their proposed changes to parts B and D(iii) of Policy DM27 to make the policy sound. It is therefore requested that REG's suggested inclusion of the consideration of public benefits of development, be considered within the policy.