

Planning Statement

**Proposed Repowering of an existing 46.5m to blade tip
Wind Turbine by installing a replacement 77m to blade tip
Wind Turbine located 24.3m to the south-east of the
existing wind turbine**

**Land west of The Energy Coast Business Park, off A595,
Haile, Egremont, CA22 2NH**



Client: Windlend (Cumbria) Limited

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Date: February 2024

Introduction

- 1.1 This Planning Statement has been submitted on behalf of Windlend (Cumbria) Limited in support of their full planning application (the Application) to Cumberland Council (“the Council”) under the Town and Country Planning Act 1990 (as amended) for the proposed repowering of an existing wind turbine by erecting a 77m to blade tip wind turbine.
- 1.2 The Application seeks Full Planning Permission for the following (“the Development”):
- The repowering of an existing 46.5m to blade tip wind turbine by installing a replacement 77m to blade tip wind turbine including the installation of a replacement substation building and access works.
- 1.3 The Development is sought on the basis that the replacement wind turbine would generate electricity over a temporary 30-year period which would commence on the date of the first export of power.
- 1.4 The repowered wind turbine is proposed to be located at grid reference E 302333, N 508327. It is located 24.3 metres to the south-east of the existing wind turbine.
- 1.5 The Development would result in a Wind Turbine with an installed capacity of 0.95 MW: this represents a 0.55 MW increase in installed capacity when compared to the existing wind turbine.
- 1.6 The documents that have been submitted as part of this Planning Application are set out below.

Document Title	Consultant/Author
Landscape and Visual Impact Assessment	Loco ₂ gen
Noise Assessment	Loco ₂ gen
Ecological Impact Assessment	Loco ₂ gen
Traffic & Transport Assessment	Loco ₂ gen
Cultural Heritage and Archaeological Impact Assessment	Loco ₂ gen
Shadow Flicker Assessment	Loco ₂ gen
Statement of Community Involvement	Curtis Communications
Sustainable Surface Water Drainage Assessment	Andy Brand MTPI
Planning Statement	Andy Brand MRTPI

- 1.7 The following Plans and Figures also comprise the Planning Application:

Figure Name or Number	Figure Title or Description
PLN-001	Site Location Plan (Aerial Image)
PLN-002	Site Location Plan
PLN-008	Site Levels (Lidar)
ZTV-001	Zone of Theoretical Visibility (ZTV) Plan – Proposed Turbine
ZTV-002	ZTV Plan – Proposed Turbine
ZTV-003	ZTV Comparative Plan – Existing & Proposed Turbines

ZTV-004	ZTV Comparative Plan – Existing & Proposed Turbines
ZTV-005	ZTV Cumulative Plan
ZTV-006	ZTV Cumulative Plan – with Existing & Proposed Turbines
ZTV-007	ZTV Plan – Visual Receptors
ZTV-008	ZTV Plan – Visual Receptors – Designations
ZTV-009	ZTV Plan – Landscape Character Areas
ZTV-010	ZTV Plan – Viewpoint Locations (Rev 5.0)
DES-0001	Proposed Substation
DES-0002	Wind Turbine Elevation
DES-0003	Block Plan
MSC-001	Wind Turbine Oversail Area (Aerial Image)
MCS-002	Wind Turbine Oversail Area

- 1.8 This Application has been the subject of Pre-Application discussions with the Council which identified concerns over the proposed height of the wind turbine. That response (dated 16th May 2023) pre-dated changes to the National Planning Policy Framework (NPPF). The Applicant also disagrees with the Council’s reference to the previous appeal decision in relation to the 2012 planning application: the Applicant considers that the Appeal Decision is dated and that the changes to planning and energy policy requires a full recalibration of the benefits against any identified harm from the proposed taller wind turbine.
- 1.9 This Statement provides an assessment of the Development against the engaged planning policies and material considerations which are to be taken into account when determining the planning application.

The Applicant

- 1.10 The Applicant (Windlend (Cumbria) Limited) owns and operates the existing wind turbine. They are promoting the repowering of the turbine given their knowledge of the wind resource at the site which the proposal seeks to maximise the use of.
- 1.11 The Applicant has considerable experience of renewable energy development; particularly in the installation and management of wind turbines such as that proposed here. The company is committed to promoting and developing appropriate renewable energy generating projects in order to deliver sustainable electricity to meet the needs of Cumbria and the United Kingdom. The company has been involved in projects within the United Kingdom that have delivered developments with a combined installed capacity in excess of 100 MW of renewable electricity.

2.0 The Need for the Development

Renewable Energy

- 2.1 Renewable energy generation is an integral part of tackling climate change. Climate change has been quoted as being the greatest environmental challenge facing the world today. In order to seek to tackle this issue the UK Government has entered in to binding international agreements that commit them to reduce greenhouse gas emissions.
- 2.2 The proposed wind turbine has an installed capacity of 0.95 MW which is considerably higher than the capacity of the existing wind turbine (0.4 MW). The proposal would therefore constitute a 137.5% increase in the available export of renewably sourced electricity from the site.
- 2.3 The Applicant operates the existing wind turbine and is aware that the wind resource would viably support a taller wind turbine. This would maximise the use of the renewable energy generation capability.
- 2.4 The annual generation expected from the Development is estimated to be around 2,670 MW hours per year. This is based on a capacity factor of 32.08% (which reflects the Department for Energy Security and Net Zero long-term average load factor for offshore and onshore wind¹). This equates to the annual electricity needs of 761 homes (based upon BEIS Subnational Electricity and Gas Consumption Statistics (December 2022)¹).
- 2.5 The existing wind turbine is estimated to have an annual generation of 1,124 MW hours which is equivalent to the annual electricity needs of 320 homes.
- 2.6 As amended by a subsequent variation of the original Planning Permission for the existing wind turbine this is due to be removed from the Site in December 2039.
- 2.7 The existing wind turbine therefore has around 16 years of generation left which equates to 17,984 MW hours. The proposed wind turbine seeks permission for 30 years. Assuming that the new wind turbine is erected in December 2024 it would therefore generate 80,100 MW hours of electricity: an increase of 62,116 MW hours.
- 2.8 Each unit of wind generated electricity could displace a unit of electricity which is produced in an unsustainable way – therefore saving harmful power emissions. For the Development, this equates to displacing approximately 34,344 tonnes of CO₂ emissions, based on DUKES emission factors², over the operational life which is a significant positive environmental effect.
- 2.9 The Development would make a substantial positive contribution in seeking to tackle climate change as summarised in the table below.

¹ <https://www.renewableuk.com/page/UKWEDEExplained/Statistics-Explained.htm> (Accessed 15/11/2023)

² DUKES (2022) Digest of United Kingdom Energy Statistics 2022 [Online] Available at: <https://www.gov.uk/government/statistics/digest-of-uk-energy-statistics-dukes-2022> (Accessed 15/06/2023)

Criteria	Existing Wind Turbine	Proposed Wind Turbine	Difference (Proposed Vs Existing)
Installed Capacity	0.4MW	0.95MW	0.55MW increase (137.5%)
Annual Generation (MW hours)	1,124 MWh	2,670MWh	1,546 MWh increase
Annual Electricity Needs Fulfilled (Homes)	320	761	441 homes increase
Generation over lifetime of the Wind Turbine	17,984 MWh (over 16 years)	80,100 MWh (over 30 years)	62,116 MWh increase
CO ₂ emissions savings over the lifetime of the Wind Turbine	7,624 tonnes	34,344 tonnes	26,720 tonnes saving increase

3.0 The Development, Site Description, Existing Nearby Development and Planning History

The Development

- 3.1 The Development involves the repowering of an existing wind turbine with a 0.95 MW wind turbine located at Grid Reference E 302333, N 508327. The wind turbine will consist of a conical tubular steel tower together with the nacelle which attaches the hub and rotor (including three blades).
- 3.2 The final choice of the turbine will, as with all wind turbine proposals, be the subject to a competitive selection process. For the purposes of this Application it is assumed that an EWT DW61 wind turbine will be erected. The maximum tip height is up to 77 m with the hub height being approximately 46 m.
- 3.3 The proposed access to the wind turbine is partly already in situ as it follows the existing private access road from the A595 to the existing Energy Coast Business Park. The only additional access works proposed relate to further gravelled permeable hardstanding areas (including the crane hardstanding) to reach the location of the proposed wind turbine. Other ancillary development which is also proposed at the site as follows:
- Substation (2.8m wide x 2.8m deep x 2.27m high) (replacing the existing substation);
 - Underground cabling; and
 - Access works to facilitate crane hardstandings to enable construction and decommissioning (utilising the existing hardstandings where possible).
- 3.4 Permission is sought for a temporary 30-year period which would commence following the first export of electricity from the new wind turbine. After that time either a new permission would be sought or the turbine would be removed and the site decommissioned and restored to its present use.

Site Description

- 3.5 The proposed location of the Development is on land to the west of the Energy Coast Business Park. It would replace the existing wind turbine which is situated in a field which is occasionally used for grazing purposes. The proposed repowered wind turbine is located 24.3 metres to the south-east of the existing wind turbine.
- 3.6 The Energy Coast Business Park comprises a range of industrial units with businesses including energy related companies.
- 3.7 The Application site is approximately 1 kilometre (km) east of Thornhill, 1 km south-west of Haile, 1.2 km north-east of Beckermat, 2 km south-east of Egremont and 3 km north-west of the Sellafield Nuclear site.

Existing Nearby Development

- 3.8 There are a number of isolated residential properties close to the Site, although none are located within the Site. The closest residential properties are at Yeorton Hall which are all financially involved in the project.
- 3.9 The next closest existing residential property is The Old Reservoir which is around 588 metres to the north-west of the proposed wind turbine.

Planning History

- 3.10 Other than Planning Permission 4/13/2091/OF1 which permitted the existing wind turbine to which this Planning Application seeks to repower, and the subsequent variation of that Planning Permission (4/13/2451/OF1 which enabled an additional temporary period of 5 additional years), there is no other relevant planning history at the Application Site. Within the surrounding area the following are considered to be relevant.
- 3.11 Planning Permission 4/15/2377/OF1 was granted in May 2016 for a 5 MW solar park across a 16.3 ha site which was located around 231 metres to the west of the existing wind turbine. That permission was not implemented.
- 3.12 Three 15m high micro wind turbines were granted Planning Permission at Appeal (Council ref: 4/11/2183/OF1) and these turbines are operational.
- 3.13 A wind turbine at Petersburgh Farm was granted Planning Permission (Council ref: 4/14/2251/OF1) in January 2015 with a subsequent variation permitting the tip height to be 48 m.
- 3.14 The Sellafield nuclear site is visible from the Application Site. Sellafield has been undergoing decommissioning since 2022 but it remains a vast complex covering around 265 hectares which contains over 1,000 buildings including various towers and tall structures.

4.0 Planning Policy and Considerations

- 4.1 The relevant policies and considerations are considered below together with an overview of planning and energy policy.

Development Plan

- 4.2 The Development Plan for the Site consists of the Copeland Local Plan 2013-2028 Core Strategy and Development Management Policies DPD (adopted December 2013) and the Cumbria Minerals and Waste Local Plan 2015 to 2030 (adopted September 2017).
- 4.3 With regard to the Minerals and Waste Local Plan the Site is not affected by any designation or safeguarding of minerals. The Site is within the Technical Safeguarding Area of the Sellafield Nuclear facility which requires that the Health and Safety Executive be consulted by the Local Planning Authority on the proposal. In light of this the Minerals and Waste Local Plan is not considered any further within this Statement.
- 4.4 The Council is producing a new Local Plan and this is subject to examination at this time. The Inspector wrote to the Council in June 2023 to request further information ahead of Main Modifications public consultation. The draft Local Plan covers the period of 2021-2038 and given its current advance status we have reviewed the draft policies and considered, as set out in paragraph 48 of the National Planning Policy Framework, the weight to be applied to each emerging policy as a material planning consideration. We also review the National Planning Policy Framework which was updated in September 2023 in respect of renewable energy proposals. A further version was published in December 2023: this did not amend the position with regard to renewable energy proposals.

Local Planning Policy and Considerations

Copeland Local Plan

- 4.5 Strategic Policies within the Core Strategy and Development Management Policies DPD include Policy ST1 which, amongst other things, confirms that strategic development principles include: supporting the development of energy infrastructure; support diversity in jobs; minimise carbon emissions; and adapt to the effects of climate change.
- 4.6 Strategic Policy ST2 Part C also confirms at criterion ii) that the Council will support renewable energy generating proposals which best maximise renewable resources and which minimise environmental and amenity impacts.
- 4.7 The Core Strategy and Development Management Policies DPD also includes Policy ER2 which considers the principle of new renewable energy generation developments. The policy states that:

The Council will support new renewable energy generation proposals which best maximise renewable resources and minimise environmental and amenity impacts. The Council in determining applications will have regard to targets agreed with partners, based on up-to

date research taking into account local circumstances. Criteria on renewable energy development / generation are set out in Policy DM2.

- 4.8 The supporting text to the policy at paragraph 4.3.1 states that the Government has set a target to supply 15% of the UK's energy from renewable energy by 2020 (as set out in the 2009 Renewable Energy Directive).
- 4.9 At paragraphs 4.3.3 and 4.3.6 reference is made to the August 2011 Cumbria Renewable Energy Capacity and Deployment Study which assessed the potential capacity for renewable sources of energy between 2011 and 2030. For Copeland the study found that renewable generation could increase from 17 MW to 46 MW in 2030 with onshore wind being the dominant source of generation. Paragraph 4.3.8 confirms that the Local Plan provides a positive policy framework together with the aspiration to deliver 46 MW of electricity from renewable sources by 2030.
- 4.10 Policy ER2 therefore supports Strategic Objective 1 of the Local Plan which seeks to support future renewable and low carbon energy generation capacity in Copeland.
- 4.11 Policy ENV3 relates to biodiversity and geodiversity: it confirms that the Council will seek to ensure that development incorporates measures to protect and enhance any biodiversity interest.
- 4.12 Policy ENV4 considers heritage assets and requires, amongst other things, that proposals protect heritage assets.
- 4.13 Policy ENV5 is entitled protecting and enhancing the Borough's landscape. It states that the Council will achieve this through: protecting all landscapes from inappropriate change; supporting proposal which enhance the value of the Borough's landscapes; and, where the benefits of development outweigh the potential harm, ensuring that the impact of the development on the landscape is minimised through adequate mitigation.
- 4.14 Policy DM2 identifies the need for a detailed assessment of other considerations arising from renewable energy proposals. The policy states:

Proposals for renewable energy development in the Borough will be supported where they satisfy the following criteria:

A Proposals should be developed with the Borough's community and key stakeholders in accordance with the Council's current adopted approach to stakeholder involvement

B There would be no unacceptable adverse visual effects

C There would be no unacceptable adverse effects on landscape or townscape character and distinctiveness

D There would be no unacceptable impacts on biodiversity or geodiversity

E The proposals would not cause an unacceptable harm to features of nature or heritage conservation importance

F There are no unacceptable impacts of noise, odour, dust, fumes, light or other nuisance that is likely to affect residents and other adjoining land users

G Any waste arising as a result of the development will be minimised and managed appropriately

H Provision is made in proposals for the removal and site restoration at the end of the operating life of the installation

Adequate mitigation measures would be secured to minimise the potential impacts of any renewable energy development proposals and to deliver significant benefits to the community where the scheme is to be sited wherever possible. If necessary such measures would be secured through Planning Obligations.

- 4.15 Policy DM11 is entitled sustainable development standards. The policy appears to relate mainly to residential proposals albeit criteria E does encourage construction materials to be sourced, where possible, from local and sustainable sources of production and criteria G considers surface water.
- 4.16 Policy DM22 relates to developments needing to be accessible.
- 4.17 Policy DM25 includes reference to habitats and species. Amongst other things it requires that development proposals that would cause a direct or indirect adverse effect on locally recognised sites of biodiversity and geodiversity importance.
- 4.18 Policy DM27 relates to built heritage and archaeology: it requires that proposals protect, conserve and where possible enhance the historic, cultural and architectural character of the historic sites and their settings. The policy also considers archaeological matters.

Supplementary Planning Documents and Guidance

- 4.19 The Local Plan refers to a July 2007 Supplementary Planning Document (SPD) entitled Cumbria Wind Energy. The policy basis for this SPD includes regional targets and Planning Policy Statement 22 which both are no longer relevant. The SPD does though identify Landscape Character Areas with the Application Site being located within Landscape Type 5: Lowland with the sub-type being 5b Low Farmland. The SPD suggests that the landscape type has moderate capacity to accommodate wind turbine development.
- 4.20 As part of the evidence base to the draft Local Plan the Council has produced a Technical Document entitled Wind Energy (February 2022). Paragraph 3.14 of this Document confirms that the Council considers the 2007 SPD to be dated.
- 4.21 The document confirms (at paragraph 2.3) that as of December 2020 the renewable energy generation from all sources within the Borough was 30.1MW. Table 3 identifies that, taking account of landscape constraints, the potential wind capacity for the Borough is 81.8MW.
- 4.22 The Document includes Figure 7 which is a map that identifies suitable areas for wind energy development. The Application Site falls within an 'Overall Suitable Location' which is unsurprising given the presence of the existing wind turbine.

Draft Local Plan

- 4.23 The draft local plan includes policy DS1PU which establishes that there is to be a presumption in favour of sustainable development.
- 4.24 Draft policy DS2PU is entitled reducing the impacts of development on climate change. It states that the Council will support development proposals that make a positive contribution towards achieving the Cumbria wide goal of net zero carbon by 2037 where they accord with the Development Plan.
- 4.25 The main draft policy which is relevant to this proposal is policy CC2PU which relates to wind energy developments. The policy states that large turbines (50m or over in height) must be located in an Area Suitable for Wind Energy as shown on the proposals map unless the proposal is for the repowering of an existing wind turbine or it seeks to extend the operational life of an existing turbine.
- 4.26 The draft policy confirms a series of detailed considerations which will require consideration individually and cumulatively. These include landscape character, residential amenity and biodiversity.
- 4.27 The draft policy goes on to state:

Where proposals would result in significant adverse effects, proposals will only be accepted where this is outweighed by the wider environmental, economic, social and community benefits and in the case of the historic environment balanced against public benefit as per national policy. Where harm is unavoidable, the planning application must include details of mitigation measures proposed in order to overcome or reduce such harm.

Proposals will only be considered suitable where it can be demonstrated that the planning impacts identified by local communities during consultation have been fully addressed.

Where turbines become non-operational for a period in excess of 6 months, the facility must be removed and the site will be fully restored to its original condition within 12 months. A detailed plan that sets out how any impacts will be managed during construction and restoration must be submitted to the satisfaction of the Council.

Proposals for the re-powering of turbines in areas which are identified as unsuitable in principle could potentially be permitted where the impacts of such development, including cumulative effect, are considered acceptable. This will be assessed on a case-by-case basis.

- 4.28 During the Local Plan Examination the Council modified Appendix D which includes the map of Areas Suitable for Wind Energy. The latest plan is shown below with a red star added to reflect the approximate location of the Application Site. The Application Site is within an Overall Suitable Location.



- 4.29 Draft policy DS6PU relates to design and development standards. Criteria b) requires that developments must create and enhance locally distinctive places which are sympathetic to the surrounding context of the built, historic and natural environment and local landscape character.
- 4.30 Draft policy N1PU identifies that the Council will adopt a mitigation hierarchy with regard to biodiversity and geodiversity.
- 4.31 Draft policy N6PU seeks to protect and enhance the borough's landscapes by, *inter alia*, protecting all landscapes for inappropriate change and requiring a landscape appraisal which may include a landscape and visual impact assessment. Where that assessment identifies harm development will only be permitted where the benefits of the development outweigh any potential harm and mitigation and compensation measures must be provided.
- 4.32 As part of the evidence base for the draft Local Plan the Council produced a Wind Energy Technical Document in February 2022 which has been considered above.
- 4.33 The Council referenced draft policy N8PU in relation to the undeveloped coast within the pre-application response letter but we do not consider that this draft policy is relevant given that the Application Site is not within the designated Undeveloped Coast.

Summary of Development Plan Policies and Local Guidance

- 4.34 The above Development Plan policies, draft policies and local guidance can generally be described as being positively worded towards new renewable energy generating developments but clearly there is a requirement to assess, in detail and including against other relevant planning policies, the resulting impacts on the environment and upon the amenity of those who live in and use the local area.

National Planning Policy and Considerations

National Planning Policy Framework (December 2023)

4.35 The NPPF was updated in September 2023 in relation to onshore wind proposals. The later December 2023 version of the NPPF retained those changes.

4.36 Paragraph 160 states that:

To help increase the use and supply of renewable and low carbon energy and heat, plans should:

a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, and their future re-powering and life extension, while ensuring that adverse impacts are addressed appropriately (including cumulative landscape and visual impacts);

b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and

c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for colocating potential heat customers and suppliers.

4.37 Paragraph 163 goes on to state that:

When determining planning applications for renewable and low carbon development, local planning authorities should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions;

b) approve the application if its impacts are (or can be made) acceptable⁵⁸. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas, and

c) in the case of applications for the repowering and life-extension of existing renewable sites, give significant weight to the benefits of utilising an established site, and approve the proposal if its impacts are or can be made acceptable.

4.38 NPPF Footnote 58 states that:

Except for applications for the repowering and life-extension of existing wind turbines, a planning application for wind energy development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in the development plan or a supplementary planning document; and, following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been appropriately addressed and the proposal has community support.

- 4.39 The update to the NPPF in September 2023 was accompanied by a Written Ministerial Statement (WMS) from Michael Gove MP which stated, amongst other things, that:

We are also adjusting the policy so that local authorities can more flexibly address the planning impact of onshore wind projects as identified by local communities, on which we intend to publish further guidance. We have heard accounts that current policy has been applied in such a way that a very limited number of objections, and even at times objections of single individuals, have been taken as showing a lack of community backing. This is not the policy intent, and as a result of today's policy change it will now be important that local decision makers are able to take a more balanced approach, considering the views of communities as a whole. The Government is also open to novel ways to demonstrate community consent, building on best practice and using new digital engagement techniques.

- 4.40 The press release³ referencing the WMS included a quote from the Secretary of State for Energy and Net Zero, Claire Coutinho who confirmed that renewables are a crucial part of our energy transition. The press release also stated that:

Renewable energies fuelled 42% of the UK's electricity generation in 2022, up from 7% in 2010. However, the government knows it must go further and faster to generate the clean and renewable energy the country needs.

- 4.41 In relation to other planning considerations the NPPF at paragraph 11 confirms that there is to be a presumption in favour of sustainable development with paragraph 8 stating that achieving sustainable development means that the planning system has three overarching objectives: economic, social and environmental.

- 4.42 Within Section 4 of the NPPF the importance of pre-application discussions and consultation is set out. With regard to transport considerations paragraph 115 confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 4.43 Paragraph 135 f) requires a high standard of amenity for existing residents.

- 4.44 Paragraph 180 d) identifies that planning decisions should minimise impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

³ <https://www.gov.uk/government/news/local-areas-supported-to-progress-onshore-windfarms> Accessed 15/11/2023

- 4.45 Paragraph 180 e) states that with regard to noise considerations the planning decisions should prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, noise pollution.
- 4.46 In respect of heritage matters paragraph 208 advises that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Local Energy Policy

- 4.47 Here we review the Copeland Borough Council local energy documents. The Council has recently merged with other local authorities to become Cumberland Council but no Cumberland energy policy exists for the new authority as yet. The Cumberland Council website does though state that⁴:

Climate change is one of the greatest challenges of all time. It is one of the biggest challenges to both humanity and nature globally. We are already seeing the impact of the climate and environmental crises, responding to and recovering from the devastating effects in our communities from severe weather such as unprecedented flooding.

- 4.48 Copeland published a Sustainability Strategy & Climate Action Plan 2022/23 in April 2022. The Executive Summary of the Plan makes clear the pathway for Copeland by confirming that:

*For the first time, we have set a science-based carbon budget for Copeland (page 12), using the Tyndall Centre's recommendations. Rapid and transformational change is required to stay within this budget. In order to meet the target 12.4% year on year reduction in CO2 emissions and stay within Copeland's carbon budget, **the CO2 reduction target for Copeland by the end of 2023 versus 2018 is 48.4%**.*

*This is aligned to **95% reduction in carbon emissions in Copeland versus 2018 levels by 2043**, with an ambition to meet the more challenging Net Zero emissions target for Cumbria by 2037.*

- 4.49 The Council has adopted the Tyndall Centre report which establishes a Carbon Budget for Copeland. The Plan identifies that the Tyndall Centre report makes three key recommendations for Copeland as follows:

- 1. Stay within a maximum cumulative carbon dioxide emissions budget of 3.1 million tonnes (MtCO₂) for the period of 2018 to 2100.** At 2017 CO₂ emission levels, Copeland would use this entire budget within 7 years from 2020.
- 2. Initiate an immediate programme of CO₂ mitigation to deliver cuts in emissions averaging a minimum of -12.4% per year** to deliver a Paris aligned carbon budget. These

⁴ <https://www.cumberland.gov.uk/your-environment/climate-change-and-natural-environment> Accessed 15/11/2023

annual reductions in emissions require national and local action, and could be part of a wider collaboration with other local authorities.

3. Reach zero or near zero carbon no later than 2043. This report provides an indicative CO2 reduction pathway that stays within the recommended maximum carbon budget of 3.1MtCO₂. In 2043, 5% of the budget remains. Earlier years for reaching zero CO2 emissions are also within the recommended budget, provided that interim budgets with lower cumulative CO2 emissions are also adopted.

4.50 The Plan goes on to confirm that the above translates into the 5 yearly carbon budgets as follows:

Year	Recommended Carbon Budget	Reduction in Emissions versus 2015
2018-2022	1.5 Megatonnes (MT) CO2	27.8%
2023-2027	0.8 Mt CO2	62.6%
2028-2032	0.4 Mt CO2	80.7%
2033-2037	0.2 Mt CO2	90.0%
2038-2042	0.1 Mt CO2	94.8%
2043-2047	0.1 Mt CO2	97.3%
2048-2100	0.1 Mt CO2	98.6%

4.51 The Plan then confirms that:

*As can be seen, rapid and transformational change is required to stay within the recommended carbon budgets for Copeland. To meet the budget for 2018-22, annual emissions in Copeland in 2022 would need to be less than 0.23MtCO₂. In order to meet the 12.4% year on year reduction in CO2 emissions and stay within Copeland’s carbon budget, **the CO2 reduction target for Copeland by the end of 2023 versus 2018 is 48.4%.***

In summary, the acceptable net zero carbon pathways for Copeland are:

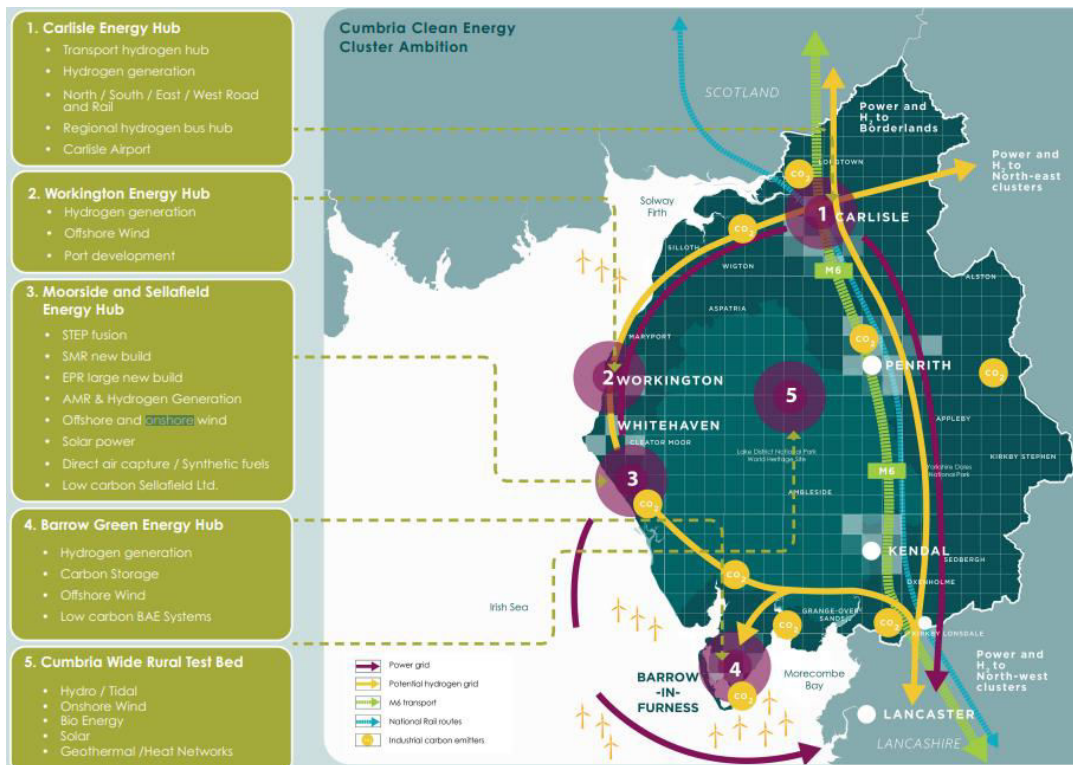
- UK Net Zero target: Net Zero emissions by 2050*
- Tyndall Centre pathway: 95% reduction CO2 only by 2043*
- Zero Carbon Cumbria target: Net Zero emission by 2037*

We adopt the Tyndall Centre target, but with an ambition to support the Zero Carbon Cumbria recommended target of net zero emissions by 2037.

4.52 The Plan references the Cumbria Clean Energy Plan as part of the Key Adaptation and Mitigation Interventions for Copeland. This is considered further below.

4.53 The Cumbria Clean Energy Strategy was published in July 2022 by the Cumbria Local Enterprise Partnership (LEP). The table on page 10 of the strategy identifies that in 2020 there were 214 MW of onshore wind (installed capacity) operating within Cumbria which represents 1.5% of the Cumbria share.

4.54 Page 46 of the Strategy identifies the Moorside and Sellafield Energy Hub as per the image below. This includes onshore wind within the Hub.



UK Energy Policy

- 4.55 UK energy policy is anchored by the Climate Change Act 2008 which sets out a legal framework for the UK to cut greenhouse gas emissions to 80% below 1990 levels by 2050.
- 4.56 Following this Act the Government produced in July 2009 The UK Renewable Energy Strategy⁵. This Strategy sets out the need to radically increase the use of renewable electricity, heat and transport. It sets out the path which the Government intended to take to meet the legally-binding target in the Climate Change Act to ensure 15% of energy comes from renewable sources by 2020.
- 4.57 The Strategy goes on to consider how the Government will tackle climate change and how it will also promote the security of our energy supply; reducing overall fossil fuel demand by around 10% and gas imports by 20–30% against what they would have been in 2020. The Strategy highlights that this will create opportunities for the UK economy with the potential to create up to half a million more jobs in the UK renewable energy sector resulting from around £100 billion of new investment. A roadmap was then produced by the UK

⁵ HM Government (2011). [Online]. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228866/7686.pdf (Accessed 21/11/2022)

Government in 2011⁶ with subsequent updates being provided in 2012⁷ and 2013⁸. These roadmaps provided updates in respect of the Climate Change Act targets as well as information in respect of the split of energy generation from specific fuels as well as specific technologies.

UK Government: Net Zero Strategy: Build Back Greener (October 2021)⁹

4.58 In October 2021 the UK Government announced a net zero strategy in order to seek to lead the world in ending the UK's contribution to climate change, while turning this mission into the greatest opportunity for jobs and prosperity for the UK since the industrial revolution.

4.59 The key policies identified within the plan include:

- By 2035 the UK will be powered entirely by clean electricity, subject to security of supply;
- Delivering cheaper electricity by rebalancing policy costs from electricity bills to gas bills in this decade;
- A zero emission vehicle mandate to improve consumer choice and ensure maximum economic benefit from the transition by 2030 to end the sale of new petrol and diesel cars and that by 2035 all cars must be fully zero emissions capable.

4.60 Paragraph 35 (on page 55) of the strategy states that:

In delivering net zero, the UK also has the opportunity to be at the forefront of large, expanding global markets and capitalise on export opportunities in low carbon technologies and services. This includes renewables By leading the world in the transition to a net zero future, the UK will be well placed to benefit economically by leading in the export of sustainable technologies and solutions.

4.61 The strategy identifies a series of pathways in order to achieve the 2035 goals. Page 78 confirms that by "2035, all our electricity will need to come from low carbon sources, subject to security of supply, moving to a fully decarbonised power system whilst meeting a 40-60% increase in demand".

4.62 Paragraph 11 on page 98 identifies that:

A low-cost, net zero consistent electricity system is most likely to be composed predominantly of wind and solar generation, whether in 2035 or 2050 ...

⁶ HM Government Department of Energy and Climate Change (2011). UK Renewable Energy Roadmap. [Online]. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/48128/2167-uk-renewable-energy-roadmap.pdf (Accessed 21/11/2023)

⁷ HM Government Department of Energy and Climate Change (2012). UK Renewable Energy Roadmap Update. [Online]. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/80246/11-02-13-UK-Renewable-Energy-Roadmap-Update-FINAL-DRAFT.pdf Accessed 21/11/2023)

⁸ HM Government Department of Energy and Climate Change (2013). UK Renewable Energy Roadmap 2013. [Online]. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/255182/UK-Renewable-Energy-Roadmap-5-November-FINAL-DOCUMENT-FOR-PUBLICATIO-.pdf (Accessed 21/11/2023)

⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1033990/net-zero-strategy-beis.pdf (Accessed 21/11/2023)

UK Government: Powering Up Britain (March 2023)¹⁰

- 4.63 This report identifies that energy security is one of this Government’s greatest priorities – and why the Prime Minister created the new Department for Energy Security and Net Zero with the new department’s mission being to replace imported fossil fuels with cheaper, cleaner, domestic sources of energy.
- 4.64 The report confirms that the rapid deployment of low carbon electricity will enable a systemic transformation across the economy working with technologies across the system to deliver cheaper, more secure energy, and that, global action to mitigate climate change is essential to long term prosperity.
- 4.65 The report recognises that onshore wind is an efficient, cheap and widely supported technology.
- 4.66 The report was also supported by two further publications: firstly the Energy Security Plan.
- 4.67 The Energy Security Plan confirms that energy security necessarily entails the smooth transition to abundant, low-carbon energy. It identifies that if the UK does not decarbonise then energy will be less secure. It confirms that “we want our energy to be cheap, clean and British”.
- 4.68 In this context the Plan confirms that the UK will move towards energy independence by aiming for a doubling of Britain’s electricity generation capacity by the late 2030’s.
- 4.69 It further confirms that the UK Governments strategy is to increase supply of low-carbon energy which is dependent on enhancing the UK’s strengths on wind, solar and nuclear power generation alongside hydrogen production and carbon capture, usage and storage.
- 4.70 The Plan also confirms that strengthening Britain’s energy security means moving from fossil fuels to home-grown, clean energy in order to eliminate emissions and tackle climate change. It goes on to identify that secure, low-cost and clean electricity is central to this. The Plan identifies that in 2050 clean energy will be the predominant form of final energy consumption and a key means of decarbonising other sectors. It also states that by the middle of the next decade, demand may grow by up to 60% as the UK electrifies transport and heat.
- 4.71 The Plan confirms that there is over 14 gigawatts of offshore wind currently deployed in the UK and that low-cost onshore wind is an important part of the energy mix, accounting for around a quarter of installed renewable capacity.
- 4.72 The second supporting document is the Net Zero Growth Plan which confirms that the UK Government welcomes the recommendations made by the Independent Review of Net Zero and the Climate Change Commission’s 2022 Progress Report to Parliament. It states that the Land Use Framework, which the UK Government intends to publish in 2023, will help set out

¹⁰ <https://www.gov.uk/government/publications/powering-up-britain> Accessed 15/11/2023

how the UK can deliver multifunctional landscapes that are resilient to the changing climate whilst meeting the UK's needs for net zero, food production and environmental recovery. The Report confirms that the agricultural sector plays an important role in supporting onshore renewable energy generation, aiding delivery of the British Energy Security Strategy, whilst maintaining domestic food production security.

National Policy Statements (Dated November 2023: Published January 2024)

4.73 In January 2024 the Government published National Policy Statements (NPSs) which were principally produced to inform planning schemes for energy related developments of national importance. The NPS are though, as confirmed by paragraph 1.2.1 of the NPS entitled Overarching NPS for Energy (EN-1), considered to represent a material planning consideration for all types of planning permission (whether of national importance or not). Of relevance to this Statement is the Overarching NPS for Energy (EN-1).

4.74 Paragraph 2.3.3 identifies that:

Our objectives for the energy system are to ensure our supply of energy always remains secure, reliable, affordable, and consistent with meeting our target to cut GHG emissions to net zero by 2050, including through delivery of our carbon budgets and Nationally Determined Contribution. This will require a step change in the decarbonisation of our energy system.

4.75 Paragraph 2.3.4 goes on to state that:

Meeting these objectives necessitates a significant amount of new energy infrastructure, both large nationally significant developments and small-scale developments determined at a local level. This includes the infrastructure needed to convert primary sources of energy (e.g. wind) into energy carriers (e.g. electricity or hydrogen), and to store and transport primary fuels and energy carriers into and around the country. It also includes the infrastructure needed to capture, transport and store carbon dioxide. The requirement for new energy infrastructure will present opportunities for the UK and contributes towards our ambition to support jobs in the UK's clean energy industry and local supply chains.

4.76 NPS EN-1 confirms at paragraph 3.3.1 that:

Electricity meets a significant proportion of our overall energy needs and our reliance on it will increase as we transition our energy system to deliver our net zero target. We need to ensure that there is sufficient electricity to always meet demand; with a margin to accommodate unexpectedly high demand and to mitigate risks such as unexpected plant closures and extreme weather events.

Summary of Material Considerations (including Energy Policy)

4.77 The above Council energy policy, LEP strategy together with national planning and energy policy identify support in principle for wind turbine development. They also confirm that a

significant proportion of the power generation capacity required to replace fossil fuel generation is expected to come from onshore wind generation.

5.0 Planning Assessment

- 5.1 The statutory test within Section 38(6) of the Planning and Compulsory Purchase Act 2004 for the determination of this Planning Application is that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 5.2 The engaged policies of development plan in this case are contained solely within the Copeland Core Strategy and Development Management Policies DPD 2013-2028. Material considerations include the NPPF, the Council's draft Local Plan, the evidence base to the draft Local Plan (principally the Council's Wind Energy Technical Document (February 2022)) and national and local energy policies.

Principle of the Development (Renewable Energy)

- 5.3 The principle of supporting renewable energy developments is unequivocally stated in Core Strategy and Development Management Policies DPD Policy ER2 with paragraph 4.3.8 of the Local Plan confirming that the Plan provides a positive policy framework for such developments.
- 5.4 Core Strategy and Development Management Policies DPD Strategic Objective 1 and Policy ST2 Part C ii) provide further support for the proposal also as the policies support the development of energy infrastructure and renewable energy generating proposals. Draft Local Plan policies DS1PU and DS2PU provide similar support.
- 5.5 Policy ER2 does though not contain any obvious balancing mechanism to weigh up any harm against the benefits arising from the proposal: this requirement to weigh up is an important part of the NPPF and as such, and despite the positive policy framework which it purports, Policy ER2 is not fully aligned with the NPPF. Core Strategy and Development Management Policies DPD Policy DM2 also has no weighing up measure. As such any perceived conflict with these policies would carry reduced weight.
- 5.6 The correct approach, thus including a weighing up mechanism, is contained within draft Local Plan policy CC2PU which identifies that any significant adverse effects will be weighed up against the wider benefits.
- 5.7 Draft policy C2PU also confirms that wind turbines should be located within an Area Suitable for Wind Energy and draft Local Plan Appendix D confirms that the Application Site is within an 'Overall Suitable Location' for wind energy development. The proposal is therefore compliant with draft policy CC2PU albeit the policy may not actually be relevant given this proposal involves re-powering of the existing wind turbine as the draft policy supports re-powering in any location.
- 5.8 The Council's Technical Document: Wind Energy also identifies that renewable energy generation within Copeland has the potential to deliver 81.8MW of electricity with the existing generation being 30.1MW. This proposal would therefore provide an additional

0.55MW of electricity towards the 81.8MW delivery figure whilst also extending the generation of renewable electricity beyond the December 2039 date which the existing wind turbine is restricted to.

- 5.9 The Council's 2007 Cumbria Wind Energy SPD is considered to be dated by the Council (see paragraph 3.14 of the Council's Technical Document: Wind Energy (February 2022)): we concur with that comment and so the 2007 SPD is not considered further here. In any event the SPD identified moderate capacity for wind turbine development within the Landscape Character Area which the Site is located within.
- 5.10 The NPPF provides support for onshore wind turbine development with paragraph 160 stating that plans should provide a positive strategy for energy that maximises the potential for suitable development including re-powering.
- 5.11 NPPF paragraph 163 c) identifies that for repowering projects significant weight should be given to the benefits of utilising an established site.
- 5.12 The NPPF does not define the term repowering. This matters was considered in Appeal Decision APP/M0933/W/18/3204360 (See **Appendix One**) which although relating to a time extension to existing turbines does provide some helpful context and assessment (noting that at that time the relevant footnote was number 49: it is now footnote 58 in the 2023 NPPF). Paragraphs 29 to 31 of that Appeal decision state:

29. As mentioned above, there is no definition of 'repowering' in the Framework or in any other national policy or guidance to which I was referred. I therefore have to consider the relevance of Footnote 49 on the basis of the evidence and submissions put to me.

30. The Scottish Government's Onshore Wind Policy Statement, although obviously not applicable in England, adopts a relatively wide approach to the question of repowering. However it also refers to measures designed to extend the life of components and turbines – in this case, despite comments by the appellant regarding the physical measures which may occur during an extended period so as to extend the life of the turbines, there are no physical measures before me.

31. The appellant argued persuasively that within the wind industry 'repowering' is an umbrella term covering replacement, replanting and extension of life, and this position was not evidentially contested. I am also conscious that there is nothing in the scheme before me which suggests that repowering necessarily means the physical replacement or the enlargement of turbines.

- 5.13 The Scottish Onshore Wind Policy Statement considers repowering at Section 3 and that extracted text is included at **Appendix Two**. Paragraph 5.3.6 confirms that repowering includes:

... dismantling existing turbines and installing new ones, potentially larger in scale, while re-using existing infrastructure (e.g., access roads, connection to a local electricity network).

- 5.14 The proposal seeks to re-power the capture of the wind resource at the Application Site by replacing the existing wind turbine with a more powerful and efficient machine. The Proposed Development therefore clearly comprises of a repowering project and as such the requirements under NPPF footnote 58 do not apply. In any event though this Statement and the supporting Statement of Community Involvement identify the consultation undertaken before the submission of this Application.
- 5.15 Based on the BiGGAR Economics report commissioned by RenewableUK¹¹, onshore wind Capital Expenditure (CAPEX) is £1.32 million per megawatt (MW) on average. The BiGGAR Report estimates that, of these construction costs, regional expenditure would be 12% (in this case Cumbria); national expenditure would be 35% (England); and UK expenditure would be 47%. 53% of construction costs will be spent out with the UK.
- 5.16 The Development will create contract opportunities for local and regional contractors, through construction work and through the supply chain. During the construction phase it is estimated that the Development will generate £1.32 million within the UK economy: approximately £475,000 of which is expected to be spent within England, and £158,000 million of that is expected to be spent within Cumbria.
- 5.17 Annual operational expenditure for the Development is expected to generate approximately £75,000 spend; 42% of this is expected to be spent in the local area.
- 5.18 As set out in Section 4 of this Statement UK energy policy is unequivocally supportive of renewable energy proposals in principle given the benefits that they bring to the environment in reducing the reliance upon energy sources which contribute to climate change.
- 5.19 Local energy policy is also unequivocally supportive of new renewable energy generating schemes. The Council has adopted the Tyndall Centre's recommendations and has identified that rapid and transformational change is required in order to stay within the carbon budgets. This includes a year on year reduction in CO₂ emissions of 12.4% and reaching zero or near zero carbon no later than 2043. The Council actually has gone further here by supporting the Zero Carbon Cumbria by 2037 target.
- 5.20 The existing wind turbine is due to be removed from the Application Site in 2039 and this proposal would replace and increase the renewable energy production to the Council's target (2043) and beyond.
- 5.21 The proposal would also contribute towards the LEP's Moorside and Sellafield Energy Hub.
- 5.22 Overall planning policies (Core Strategy and Development Management Policies DPD Policies ST1, ST2 and ER2 and draft Local Plan policies DS1PU, DS2PU and CC2PU) and the Council's Wind Energy Technical Document identify that the Application Site is an appropriate location

¹¹ RenewableUK (2015). Onshore Wind: Economic Impacts in 2014 [Online]. Available at: https://cdn.ymaws.com/www.renewableuk.com/resource/resmgr/publications/reports/onshore_economic_benefits_re.pdf (Accessed 16/11/2023)

for wind turbine development subject to an assessment of the impacts which follows. There is also full and unequivocal support for the proposal via the NPPF together with national and local energy policies.

- 5.23 In the event that the decision maker finds any conflict with Core Strategy and Development Management Policies DPD Policy ER2 that policy does not contain a balancing mechanism and thus any conflict would carry no weight given the policy is at odds with the NPPF. The Council has seemingly sought to rectify this within the wording of draft Local Plan policy CC2PU.

Siting and Appearance of the Proposed Development

- 5.24 As explained within the Landscape and Visual Impact Assessment (LVIA) the siting of the re-powered wind turbine has been the subject of an ongoing process of iterative review in order to seek to mitigate the effects as far as possible. The siting has particularly been reviewed several times in order to address constraints including ecological and landscape effects. The location has been chosen carefully in order to seek to integrate the proposal into the local area and has considered the topography in relation to landscape and visual effects.
- 5.25 The proposed wind turbine is acknowledged to be higher than the existing wind turbine however the proposal reflects the height of modern turbines and the commercial wind turbine market with smaller less efficient machines (such as the existing wind turbine) now being overtaken by larger more efficient structures (such as the proposed wind turbine). This approach will maximise the energy generation from the site and therefore contribute to the increase in electricity generation which aligns with national and local energy policies.
- 5.26 Overall the siting and appearance of the Development is considered to comply with Core Strategy and Development Management Policies SPD Policy ER2 in that the proposal seeks to maximise the known renewable resource whilst minimising environmental and amenity impacts. The proposal will significantly increase the generation of renewable energy from the Application Site and will contribute significantly to the drive towards net zero.
- 5.27 The proposal also complies with Core Strategy and Development Management Policies DPD Policy DM2 as the siting and appearance of the proposal does not create any unacceptable adverse impacts. The proposal also aligns with draft policy DS6PU as the proposal is sympathetic to the local area.
- 5.28 The proposal is located within an Area Suitable for Wind Energy having regard to the draft Local Plan with Appendix D of that Plan confirming this. The identification of that reasonably confirms that the Council would find the siting and design of a wind turbine acceptable. In any event the Council has permitted a wind turbine at the Application Site and this proposal seeks to re-power that wind turbine.
- 5.29 The NPPF and national energy policy support wind turbine development with the NPPF paragraph 163 c) confirming that significant weight is to be given to a re-powering project such as this.

Landscape and Visual Impact

- 5.30 Appendix D to the Council's draft Local Plan identifies that the Application Site is within a suitable location for wind turbine development of the height proposed within this planning application.
- 5.31 A LVIA has been undertaken for the proposal and this has been informed by discussions with the Council in relation to the appropriate viewpoints in order to judge the impacts of the Development. The LVIA adopts an industry standard approach to considering the potential impacts of the Development.
- 5.32 The LVIA has been informed by a series of maps which confirm the theoretical zone of visibility (ZTV) of the proposed wind turbine. Maps ZTV-001 and ZTV-002 identify that the visibility of the proposed wind turbine is (onshore) predominantly limited to the 5 km distance from the location of the proposed wind turbine. Maps ZTV-003 and ZTV-004 build upon that by identifying the extent of the impact arising from the additional height of the proposed wind turbine when compared with the existing. These plans identify that the additional visual effects of the proposed wind turbine are evident from locations mainly to the north of Egremont and towards Woodend and Cleator. These maps also show that the wind turbine is not visible from the England Coastal Path not St Bees.
- 5.33 Section 7 of the LVIA identifies the effects upon the LCT's, residential receptors and public routes. With regard to LCT's the highest extent of the impact is 'medium to low' which applies to the host LCT (5B: Low Farmland) and the adjoining LCT (11A: Foothills).
- 5.34 The LVIA identifies a Low Adverse Effect on the Landscape as a result of the Development. The impact would be long-term (30 years) but fully reversible.
- 5.35 In that context the proposal would not breach Policy ER2 nor DM2 in that the impact would not be significantly adverse and the impacts have been minimised so far as possible. In any event the Application Site is within an Area Suitable for Wind Energy development according to the Council's draft Local Plan with such as designation recognising that there is an existing wind turbine at the Application Site.
- 5.36 The LVIA considers the varied height of the proposed wind turbine when compared to the existing wind turbine. The Development would deliver substantially more renewable energy than the existing wind turbine and it reflects the changing wind turbine market which has led to machines being developed that can produce substantially more power. The Development therefore reflects the era of wind turbine development in which it is advanced within. In any event, and as demonstrated by the visualisations within the LVIA the Development does not create any significant adverse effects. In that context the proposal would not breach Policies ER2, ENV5 or DM2 in that the impact would not be significantly detrimental.
- 5.37 With regard to residential receptors the maximum assessed impact is 'high' at the Old Reservoir and Winscales. All route receptors are assessed as having a 'low' impact. With regard to the impacts upon the visual component of residential amenity these are assessed below having regard to the so-called 'Lavender test' which identifies the key test being

whether the proposed wind turbines would have an overbearing effect and/or result in unsatisfactory living conditions which would lead to the property being regarded as an unattractive and unsatisfactory (as opposed to a less attractive) place in which to live.

5.38 A range of properties (including one property group) have been considered in the table below with each property being within 900 metres of the proposed wind turbine.

Property Name	Comments	Assessment vs Lavender Test
Yeorton Hall Cottage	This property is located 542m from the proposed wind turbine which would be sited to the north-west. Visibility is limited by virtue of the landform and intervening landscaping. There is also established electrical infrastructure close to the property.	The proposed wind turbine would not have an overbearing effect or result in unsatisfactory living conditions which would lead to the property being regarded as an unattractive and unsatisfactory place in which to live.
Sandhills (Yeorton Hall Farm)	This property is located 545m from the proposed wind turbine which would be sited to the north-west. Visibility is limited by virtue of the landform and intervening landscaping. There is also established electrical infrastructure close to the property.	The proposed wind turbine would not have an overbearing effect or result in unsatisfactory living conditions which would lead to the property being regarded as an unattractive and unsatisfactory place in which to live.
Yeorton Hall Farm	This property is located 583m from the proposed wind turbine which would be sited to the north-west. Visibility is limited by virtue of the landform and intervening landscaping. There is also established electrical infrastructure close to the property.	The proposed wind turbine would not have an overbearing effect or result in unsatisfactory living conditions which would lead to the property being regarded as an unattractive and unsatisfactory place in which to live.
Winscales Barn	This property is located 660m which would be sited to the south. Visibility would be limited to the blades with the hub not visible given the intervening land levels. The view south from the property would be marginally effected but the view would not be dominated by the turbine blades.	The proposed wind turbine would not have an overbearing effect or result in unsatisfactory living conditions which would lead to the property being regarded as an unattractive and unsatisfactory place in which to live.
Winscales House	This property is located 642m from the proposed wind turbine which would be sited to the south. Visibility would be limited to the blades with the hub not visible given the intervening land levels. The view south from	The proposed wind turbine would not have an overbearing effect or result in unsatisfactory living conditions which would

	the property would be marginally effected but the view would not be dominated by the turbine blades.	lead to the property being regarded as an unattractive and unsatisfactory place in which to live.
The Old Vicarage	This property is located 806m from the proposed wind turbine which would be sited to the south-west. As with the view of the existing wind turbine the intervening Energy Coast Business Park site would be visible albeit existing mature landscaping would restrict direct views. The turbine is sited on higher ground here but it would not overbear nor dominate the view.	The proposed wind turbine would not have an overbearing effect or result in unsatisfactory living conditions which would lead to the property being regarded as an unattractive and unsatisfactory place in which to live.
Woodlands	This property is located 886m from the proposed wind turbine which would be sited to the south-west. As with the view of the existing wind turbine the intervening Energy Coast Business Park site would be visible albeit existing mature landscaping would restrict direct views. The windows of the property do not appear to offer any direct view of the wind turbine. The turbine is sited on higher ground here but it would not overbear nor dominate the view.	The proposed wind turbine would not have an overbearing effect or result in unsatisfactory living conditions which would lead to the property being regarded as an unattractive and unsatisfactory place in which to live.
Weston	This property is located 647m from the proposed wind turbine which would be sited to the north. The views from the bungalow would be limited owing to the landform and intervening landscaping. The turbine is sited on higher ground here but it would not overbear nor dominate the view.	The proposed wind turbine would not have an overbearing effect or result in unsatisfactory living conditions which would lead to the property being regarded as an unattractive and unsatisfactory place in which to live.
Property Group at Oaklands (8 dwellings)	These properties are around 689m from the proposed wind turbine which would be sited to the north-east. The properties benefit from established tree planting to the north which would restrict any views from the single storey, chalet style or two storey properties.	The proposed wind turbine would not have an overbearing effect or result in unsatisfactory living conditions which would lead to the property being regarded as an unattractive and unsatisfactory place in which to live.
Woodlea	This property is located 711m from the proposed wind turbine which would be sited to the north. The views from the bungalow would be limited owing to the landform and intervening landscaping. The turbine is sited on higher ground here but it would not overbear nor dominate the view.	The proposed wind turbine would not have an overbearing effect or result in unsatisfactory living conditions which would lead to the property being regarded as an unattractive

		and unsatisfactory place in which to live.
The Old Reservoir	This property is located 588m from the proposed wind turbine which would be sited to the south-east. The views from the property would be limited owing to the landform and intervening landscaping..	The proposed wind turbine would not have an overbearing effect or result in unsatisfactory living conditions which would lead to the property being regarded as an unattractive and unsatisfactory place in which to live.

- 5.39 As set out within the table above the impacts upon the visual component of residential amenity of nearby properties would not breach the Lavender Test in that none of the properties would become an unattractive and unsatisfactory place in which to live.
- 5.40 The Development would therefore lead to acceptable impacts in that no overbearing impacts would result to the extent that the properties would experience unsatisfactory living conditions such that they would be regarded as an unattractive and unsatisfactory place in which to live. The Development would not therefore conflict with Policies ER2 and DM2.
- 5.41 Overall the Development is compliant with Policies ER2, ENV5 and DM2 in that the impacts on the landscape character of the surrounding area is not significantly detrimental in that the design and location of the Development reflects the scale and character of the landscape. The proposal has also sought to minimise landscape and visual impacts as set out within the LVIA.
- 5.42 The proposal aligns with the Council's (albeit dated) Cumbria Wind Energy SPD as the landscape character area has capacity to accept wind turbine development: a fact again which reflects the presence of the existing wind turbine.
- 5.43 There is also no conflict with draft Local Plan policies CC2PU, DS6PU nor N6PU.
- 5.44 The updated NPPF confirms at paragraph 163 c) that significant weight must be given to this proposal in light of the proposed re-powering. Paragraph 163 b) confirms that the Council's approach within the draft Local Plan in identifying land which is suitable for wind energy proposals is appropriate. Paragraph 163 a) supports the proposal as it seeks to maximise the potential for suitable development through increasing height of the operational wind turbine to substantially increase the generation of renewable electricity from the Application Site. If the Council is to achieve its energy policy goals then these type of developments will need to be supported.
- 5.45 Should the decision maker find conflict with Policies ER2 and/or DM2 then the weight to any conflict must be tempered as neither policy allows for a weighing up of the benefits arising from the proposal which is required to be undertaken under the NPPF.

Public Consultation

- 5.46 The Statement of Community Involvement confirms the measures that the Applicant went to in order to seek to publicise the proposal ahead of this Planning Application being submitted. Despite making local residents aware of the proposal only one comment/question was forthcoming and the Applicant provided an appropriate response.
- 5.47 It is therefore reasonable to conclude that there are no significant local objections to the proposal.
- 5.48 It should be noted here, and as confirmed in the Statement of Community Involvement that NPPF paragraph 163 and footnote 58 do not require the Applicant appropriately addresses the planning impacts raised by the local community or require that community support is demonstrated.

Ecology

- 5.49 The Ecological Impact Assessment identifies that the Application Site is located a considerable distance away from any designated nature conservation sites that qualify for ornithological or protected species interest. Most designated sites within 5km are cited for habitat and geological interest which will not be affected by the proposed repowering project.
- 5.50 Habitats on-site and within the immediate surroundings are predominantly agricultural, consisting of species poor intensively managed grassland and arable land. Subsequently, they are generally of low conservation and ecological value, failing to provide suitable habitat for a range of protected species (red squirrel, amphibians and reptiles).
- 5.51 No evidence of badger was identified during the walkover survey, and no setts were found within 250m of the site despite, suitable conditions. Presence within the wider area is assumed due to local records, and high-quality habitat further afield. Overall, the proposed development will have a minor risk of impacting badger, which can be mitigated for via the pre-construction surveys and adoption of precautionary measures during construction.
- 5.52 The walkover survey indicated that surrounding habitat, particularly arable land is of ornithological value. However, local species appear to have adapted to existing turbine and are actively utilising the surrounding landscape and on-site hedgerows. Consequently, it is not envisioned that the proposed repowering turbine will adversely affect local ornithological interests through habitat loss, displacement or collision risk.
- 5.53 Hedgerows and bramble scrub along the site's boundaries offer potential foraging and commuting habitat for bats. The proposed turbine has been sited within the site to ensure that the minimum recommended buffer (67m) between key features and the turbine is met. As a result, no further survey effort for bats is required.

- 5.54 Overall, whilst there may be minor displacement of species during the construction phase of the development, proposed repowering is unlikely to have significant effects on local ornithological and ecological interests.
- 5.55 In relation to biodiversity net gain due to the scale of the development (single turbine) and the presence of the existing access road, the repowering project is unlikely to reach the de-minimis of 25m² permanent habitat loss which may be required for mandatory Biodiversity Net Gain in the future. The replacement substation will be sited on the same footprint as the existing station, as a result there will be no additional habitat loss.
- 5.56 In planning policy terms there would be no significant detrimental impact upon species and habitats that would breach Policies ENV3 nor DM25. The proposal also complies with the NPPF and draft policy N1PU.

Noise

- 5.57 The Noise Impact Assessment considers noise impacts arising from the Development.
- 5.58 During construction, noise may result from the use of plant and machinery to carry out construction activities. However, due to the limited scale of the Development substantial separation distance between the Development and residential dwellings, no significant effects are anticipated. Notwithstanding this, Best Practice mitigation measures will be adopted to manage noise emissions, including restrictions on working hours during the construction of the Development.
- 5.59 During operation, wind turbines can generate noise from the machinery housed within the turbine and from the movement of blades through the air. Modern turbines are designed to minimise noise and planning conditions are used to ensure compliance with specified noise limits.
- 5.60 The assessment has been undertaken in accordance with the recommendations of ETSU-R-97, the method of assessing wind turbine noise recommended by Government guidance. It has been shown that noise due to the Development, in conjunction with the surrounding cumulative developments, would comply with the requirements of ETSU R-97 at all receptor locations¹².
- 5.61 Noise produced during decommissioning of the Development is likely to be of a similar nature to that during construction, although the duration of decommissioning will be shorter than that of construction. Any legislation, guidance or best practice relevant at the time of decommissioning would be complied with.
- 5.62 Subject to planning conditions being imposed the Development is therefore capable of complying with noise limits during operation of the Development whilst impacts during construction and decommissioning would be limited.

¹² The Development includes the financial involvement of three properties at Yeorton Hall

5.63 As such noise generation will not lead to any significantly detrimental impacts upon the amenity of nearby dwellings or businesses and, subject to conditions, the proposal therefore satisfies Policy DM2 F and the NPPF.

Archaeology and Cultural Heritage

5.64 The Proposed Development consists of the construction of a newly sited turbine, with a repowering hub height of 46m and tip height of 77m (EWT DW61) and an upgraded substation to be sited in the location of the existing substation.

5.65 There are no known non-designated assets within the Proposed Development Site that could undergo a direct impact.

5.66 Due to the Proposed Development Site located within a known area of Iron Ore Extraction, there is a high potential for the recovery of assets associated with the Beckermets Iron Ore Mine and associated railway formerly bordering the Site. These have a low local and regional significance.

5.67 Within the wider landscape there is a medium potential for the recovery of prehistoric to Romano British archaeology as noted by the environmental data, discussed in Section 3.2. As Haile was a medieval village, there is also a high potential for archaeological assets associated with medieval agricultural practices. These have a low local significance.

5.68 While the upgraded substation, will be sited in the same location as the original, with re-use of the existing infrastructure and hardstanding, the repowered turbine will be located 20m off-set from the pre-existing tower. While the repowered turbine has a relatively small footprint, an archaeological watching brief on the Proposed Turbine footprint is recommended as a post-consent condition. It is recommended that any archaeological work, in accordance with the Copeland Local Plan should be undertaken at the discretion of the Local Authority Archaeology Team as a post consent condition, prior to the construction of the development.

5.69 The pre-existing turbine is a visible feature in the landscape, with the repowering likely to enhance this visibility. The assessment concluded that the following assets have current glimpsed visibility, which can be negated as a result of the cumulative impact of pre-existing views to the industrial landscapes.

- Listed Buildings NHLE: 1086591 Grade II Gatepiers And Wall To South West Of Yeorton Farm located 520m S and NHLE: 1336062 Grade II Yeorton Farmhouse located 520m S
- Listed Building NHLE: 1086614 Grade II Haile Church (No Dedication) located 707m NE
- Beckermets Conservation Area with five Associated Listed Buildings located 1.3km S
- Listed Buildings NHLE: 1084317 Grade II* Haile Hall and NHLE: 1086615 Grade II* Gatehouse Range To South Of Haile Hall located 1.2km NE
- Listed Building NHLE: 1145927 Grade II Braystones Tower located 2.71km S

As such there will be no significant impact upon the outlined Cultural Heritage assets as a result of this repowering of the wind turbine.

- 5.70 In respect of Policies ENV4 and DM2 E the Development would therefore not cause unacceptable harm to features of heritage or conservation importance.
- 5.71 The proposal is also compliant with NPPF in that the Development would not have a significantly detrimental overall impact, either individually or cumulatively with other developments, upon heritage features. Any potential harm would be limited therefore and at the lowest end of the less than substantial harm threshold.

Transport and Access

- 5.72 The Traffic & Transport Report identifies the potential effects of changes to road traffic expected as a result of the Development.
- 5.73 Most traffic generated by the Development is associated with the construction phase. The main approach considered in this assessment assumes that wind turbine components will be transported as abnormal loads from either the Port of Workington or via major highways.
- 5.74 The main potential transportation impacts would be associated with the movement of abnormal loads, heavy goods vehicles (HGVs), light goods vehicles (LGVs), and cars to and from the site during the construction phase.
- 5.75 Prior to development taking place a range of safety measures would be undertaken in consultation with the relevant highway authorities with best practice being employed to ensure that the route is appropriate and safe.
- 5.76 Traffic generated due the operation and maintenance of the Development would be minimal and insignificant in comparison to traffic generated during construction.
- 5.77 Prior to decommissioning of the Development, a traffic assessment would be undertaken and appropriate traffic management procedures agreed with the relevant authorities at the time.
- 5.78 In relation to planning policies the Development would have an acceptable and temporary impact subject to the mitigation mentioned above. As such the Development would be safe and would not create any significantly detrimental traffic or travel impacts.

Aviation

- 5.79 Prior to the submission of this planning application the Applicants contacted the Ministry of Defence (MOD), National Air Traffic Services (NATS) Safeguarding Team and Atkins to identify whether any aviation concerns required addressing.
- 5.80 MOD's response suggests that they may have concerns over the proposal albeit it appears that this may be capable of being addressed through a navigation light. According to the

MOD maps¹³ the Application Site is located within a low priority military low flying areas where MOD is less likely to raise concerns. It should be noted that MOD's comments erroneously refer to a 108 metre high wind turbine despite the enquiry being for a 77 metre high machine. A copy of the MOD letter dated 8th August 2023 is contained at **Appendix Three**.

5.81 NATS commented on 19th July 2023 as follows:

NATS will provide a formal position following the receipt of a planning application however a quick check indicates that this turbine is unlikely to be of concern.

5.82 Atkins, who deal with telecommunication matters, have yet to respond to our request.

5.83 There is therefore no aviation impediment to the development taking place.

Shadow Flicker

5.84 The proposed turbine would not create any unacceptable shadow flicker impacts as demonstrated by the assessment within the Shadow Flicker Assessment.

5.85 Shadow flicker is an effect that can occur when the shadow of a blade passes over a small opening (such as window), briefly reducing the intensity of light within the room, and causing a flickering to be perceived. As a result of the distance from the Development to the nearest properties, shadow flicker effects are not likely to take place.

Decommissioning and Restoration

5.86 The proposal would cease to generate electricity after 30 years (taken from the first export of power from the wind turbine) unless a further permission was sought and approved and thereafter it would be decommissioning and removed from the site.

5.87 Prior to that a decommissioning strategy and restoration scheme would be agreed with the Council. This would involve removing all above ground apparatus and returning the land to its existing use.

5.88 The proposal could be the subject of planning conditions to require these works to be undertaken.

Planning Assessment Summary

5.89 Below we conclude this section of this Statement by reflecting on the criteria within Policy DM2. The table below demonstrates how the proposal complies with each of the engaged criteria.

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https://webarchive.nationalarchives.gov.uk/ukgwa/20140603175958mp_/https://restats.decc.gov.uk/cms/assets/SiteFiles/datasets/LowFlyingConsultationZones23Nov2011.pdf (Accessed 20/11/2023)

Policy DM2 Criterion	Applicant's Assessment
A Proposals should be developed with the Borough's community and key stakeholders in accordance with the Council's current adopted approach to stakeholder involvement	A Statement of Community Involvement has been produced. Only 1 person provided any comments and an appropriate response was provided.
B There would be no unacceptable adverse visual effects	A LVIA has been undertaken. Given the presence of the existing wind turbine, other wind turbines in the vicinity of the Site, the Sellafield nuclear power station, the Energy Coast Business Park and the landform the proposal is an appropriate location for a taller wind turbine as no unacceptable adverse visual effects would arise.
C There would be no unacceptable adverse effects on landscape or townscape character and distinctiveness	A LVIA has been undertaken to demonstrate this.
D There would be no unacceptable impacts on biodiversity or geodiversity	An Ecological Impact Assessment has been undertaken to demonstrate this.
E The proposals would not cause an unacceptable harm to features of nature or heritage conservation importance	A Cultural Heritage and Archaeological Impact Assessment and an Ecological Impact Assessment have been undertaken to demonstrate this.
F There are no unacceptable impacts of noise, odour, dust, fumes, light or other nuisance that is likely to affect residents and other adjoining land users	A Noise Impact Assessment has demonstrated that no unacceptable noise impacts would result. No other unacceptable impacts would result.
G Any waste arising as a result of the development will be minimised and managed appropriately	This will be managed appropriately.
H Provision is made in proposals for the removal and site restoration at the end of the operating life of the installation	This will be able to be secured through a planning condition.

6.0 Conclusion

6.1 The proposal (as amended) has been assessed against the policies of the Development Plan, the NPPF, the Council's draft Local Plan and national and local energy policies.

6.2 It can be concluded that:

- The Development would make a significant, substantial and welcomed contribution to tackling climate change by generating additional electricity from a renewable source at the site over a longer time than currently permitted – this would result in substantial CO₂ savings as well as contributing towards recognised energy targets. The energy delivered from the proposed repowered turbine is substantial given the installed capacity of the machine. NPPF paragraph 163 c) confirms that significant weight is to be given to such repowering proposals. This all weighs heavily in favour of the Development;
- The siting and design of the proposed Development has been carefully thought out with the repowered wind turbine being located within an appropriate location having regard to the Council's maps forming part of the draft Local Plan;
- The impacts from the proposal upon the landscape and in visual terms is limited owing to factors including the existing built environment and land levels;
- The Applicant has undertaken public consultation prior to lodging the application and there have been no objections to the proposal arising from that;
- The impacts upon the visual component of the residential amenity of nearby dwellings has been assessed and whilst the Development would create impacts it would not breach the threshold where any nearby housing would become an unattractive and unsatisfactory place in which to live;
- The turbines would not, when considered individually or cumulatively, result in any adverse noise impacts such that the residential amenity of nearby occupiers would be unacceptably compromised;
- No significantly detrimental harm would result to the cultural heritage assets of the local area;
- Subject to mitigation the transportation impacts will be temporary and acceptable;
- No unacceptable aviation or telecommunication impacts will occur;
- Decommissioning and restoration would occur after the 30th anniversary of the turbine generating electricity;
- Any impacts would be temporary (albeit over a 30 year period) and therefore reversible.

6.3 It can therefore be concluded that there would be no unacceptable significantly detrimental impacts upon the environmental, social or economic interests of the area.

6.4 We therefore conclude that Planning Permission should be granted for the proposed Development subject to planning conditions where necessary.

Appendix One

Appeal Decision APP/M0933/W/18/3204360



Appeal Decision

Inquiry held on 22 – 31 January 2019

Site visits made on 16/17 April and 17 June

by Phillip J G Ware BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th July 2019

Appeal Ref: APP/M0933/W/18/3204360

Kirkby Moor Wind Farm, Kirkby Moor and Lowick High Common, Grizebeck

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Zephyr Investments Limited against the decision of South Lakeland District Council (the Council).
- The application Ref SL/2017/0687, dated 31 July 2017, was refused by notice dated 20 December 2017.
- The application sought planning permission for 15 wind turbines and associated works (amended to 12 wind turbines as confirmed by the Council by letter dated 4 March 1993) without complying with condition attached to planning permission Ref 5/90/2312 (PNW/5166/21/73), dated 11 March 1992.
- The condition in dispute is No 6 which states that:
The turbines hereby approved shall be removed from the site on the expiration of 25 years from the date of the turbines being first brought into use or within 1 year of the turbines being decommissioned or becoming disused for any reason, whichever is the sooner.

Procedural matters

1. The three main parties - the appellants, the Council and Kirkby Moor Protectors¹ (KMP) - agreed a schedule and map of locations for my unaccompanied visits to the site and in the wider area². As I explained at the Inquiry the dates of the visits would be weather dependant, as some of the agreed locations were at some height and distance from the site. The dates of my visits³ are set out above.
2. A Statement of Common Ground (SOCG) was agreed between the Council and the appellants in December 2018. KMP were not involved with the SOCG.
3. A s106 Planning Obligation⁴ (between the appellants, Beaufort Wind Limited, P A Bostock, Lord C V Cecil and Holker Estates) was submitted in draft before the Inquiry and discussed by all parties. It included a Decommissioning Method

¹ A Rule 6 party

² Agreed Site View Plan P16-0036_300B

³ After several unsuccessful attempts due to the weather

⁴ Document 34

Statement (DMS) and a Habitat Management Plan (HMP). The final version (dated 19 March 2019) was submitted after the close of the Inquiry, and all parties have had the opportunity to comment on the final document. I have taken the contents of the Obligation and associated documents into account.

4. After the Inquiry the Council's Local Plan Development Management Policies (DMDPD) were formally adopted at full Council⁵. On the adoption of the DMDPD the saved policies of the former South Lakeland Local Plan have been superseded⁶.

Decision

5. The application seeks permission to vary the temporary time condition to allow the retention of the turbines until 31 March 2027, followed by a further year to carry out decommissioning works.
6. The appeal is allowed and planning permission is granted for 15 wind turbines and associated works (amended to 12 wind turbines as confirmed by the Council in a letter dated 4 March 1993) at Kirkby Moor Wind Farm, Kirkby Moor and Lowick High Common, Grizebeck in accordance with the terms of the application, Ref SL/2017/0687, dated 31 July 2017, subject to the conditions set out in the schedule to this decision.

Application for costs

7. At the Inquiry an application for partial costs (two options) was made by Zephyr Investments Limited against South Lakeland District Council. The application is the subject of a separate Decision.

Main issues

8. There are four main issues in this case:
 - The effect on the character and appearance of the area, including the setting and character of the Lake District National Park (LDNP) and the World Heritage Site (WHS)
 - The effect on designated heritage assets
 - The extent of any benefit accruing from the decommissioning and restoration schemes
 - The extent of any benefit arising from renewable energy generation

Reasons

Location and relevant planning history

9. The appeal site is located on the plateau which forms part of a wide northeast to southwest ridge which runs down the Furness Peninsular between Cartmel Sands and the Duddon Estuary. The turbines and related apparatus are on a broad rounded plateau. The appeal site forms part of a Site of Special Scientific Interest (SSSI) and is Access Land under the Countryside and Rights of Way Act.

⁵ 28 March 2019

⁶ Explanatory letter from the Council (11 April 2019)

10. To the west of the site is a substantial and active quarry, with permission to operate until 2042. It has recently been granted consent to expand its operations in the direction of the wind farm.
11. The windfarm was originally granted planning permission by the Secretary of State in 1992⁷, based on policy which was current at that time, which was in summary to proceed as quickly as possible with renewable energy projects. The condition which is the subject of this appeal requires the removal of the turbines within 25 years of the date they were first brought into use (which was August 1993). There was no condition requiring any other elements of the development⁸ to be removed or any restoration works to be undertaken.
12. The original approved scheme was for 15 two-blade turbines (40.5m to tip). The Council approved an amendment to this scheme to provide 12 three-blade turbines (42.4m to tip) – this was the scheme as constructed.
13. In 2015 an application was refused for 6 replacement turbines in the area of the appeal site. These would have had a tip height of up to 115m. This decision was not appealed.
14. The application which originated this appeal was supported by an Environmental Statement⁹ and proposed a revised date for the cessation of power generation by March 2027, and an end date for decommissioning in March 2028. The decommissioning scheme included a number of elements in addition to the removal of the turbines and transformers¹⁰. The application was recommended favourably by Council officers.
15. The Council refused the application on the basis that the benefits arising from the proposal, including continuing renewable energy generation and the decommissioning programme, did not outweigh the continuing adverse effects on the landscape and on the setting and character of the LDNP/WHS and on the local economy.
16. It is worth noting that, contrary to its initial position, the Council did not pursue the argument that the 1992 permission has expired and/or that the turbines have ceased working and should be removed.

Planning policy context

17. At the time of the Council's decision and the Inquiry, the development plan comprised the South Lakeland Local Plan Core Strategy (CS) (2010) and the South Lakeland Local Plan. As explained above, the latter has been replaced by the DMDPD (2019).
18. The most relevant CS policies¹¹ are:

CS1.1: This deals with a range of matters including the need to increase the proportion of energy derived from renewables, the need to protect the countryside and landscape, and to safeguard historic buildings¹².

⁷ Doc 5.1

⁸ For example, turbine foundations, transformer housings, underground cabling and access tracks

⁹ Docs 10.5 – 10.10

¹⁰ SOCS paragraph 2.3 and s106 obligation Doc 34

¹¹ Other relevant CS policies are listed in the SOCG paragraph 4.3

¹² The parties differed as to the weight which should be accorded to the policy in the light of the approach in the Framework.

CS7.7: This deals with opportunities provided by energy and the low carbon economy. It supports the principle of appropriately located wind energy schemes where the protection of the environment is assured and designated areas are safeguarded¹³.

CS8.2: This deals with the protection and enhancement of landscape and settlement character¹⁴. Reference is made to local distinctiveness and National Parks.

CS8.4: This states that all proposals should protect, enhance and restore biodiversity and geodiversity.

CS8.6: This supports the safeguarding and, where possible, enhancing of historic assets, including their characteristic settings and any attributes that contribute to a sense of local distinctiveness¹⁵.

19. The most relevant policies in the former South Lakeland Local Plan were agreed to have been¹⁶:

C7: National Sites. This has been replaced by DMDPD policy DM1, which makes reference to response to locational context, the provision of infrastructure needs in a sustainable manner and the protection of existing biodiversity assets.

C15 Listed buildings and their settings. This has been replaced by DMDPD policy DM3 which provides, amongst other matters, that all heritage assets and their settings will be safeguarded.

The appellant also argued that former policy C26, wind energy, was one of the most relevant policies, but the Council initially considered that it was not relevant in that it was not consistent with the National Planning Policy Framework (now the 2019 version) (the Framework). The position of the authority changed during the course of the appeal but, in any event, this policy (along with C31) has been superseded by DM1, DM2, and DM21. The latter encourages renewable energy development where, amongst other matters, it minimises landscape impact, respects the historic environment, avoids impact on nature conservation interests, includes measures to remove the technology, and will not have cumulative adverse impacts.

20. In addition, the Cumbria Wind Energy Supplementary Planning Document (2007) (SPD) is agreed to provide guidance on wind energy developments. It makes no mention of applications (such as the current proposal) to extend the life of existing schemes, but there is no reason to doubt the applicability of its approach to the current case. The appeal site is within a Landscape Character Type (LCT) with a medium/high capacity for turbine development. This is one of only two LCTs with this high level of capacity in Cumbria.

¹³ The Council agrees that CS policies 7.7 and CS8.2 continue to carry weight, but in the light of their adoption before the 2012 Framework this is limited

¹⁴ Although relevant, the appellant argued that the absence of any balance in the policy puts it at odds with the Framework. The Council did not refer to this policy. I agree that it has limited weight.

¹⁵ The parties agreed that limited weight should be applied to this policy (and CS1.1 and CS7.7) due to discrepancies with national policy and statutory test. I do not disagree.

¹⁶ Other relevant former South Lakeland Local Plan policies were listed in the SOCG paragraph 4.5

21. The SOCG¹⁷ sets out various other documents which are agreed to comprise material considerations¹⁸. These include national policy documents and the Inspector's report leading to the Secretary of State's decision in 1992 which led to the establishment of the windfarm.

The nature of the proposal

22. Before proceeding to the agreed main issues in this case, it is necessary to deal with another matter, which took up a significant amount of Inquiry time. That relates to the nature of the proposal in the light of Footnote 49 to paragraph 154 of the current Framework.
23. As set out above, this is a proposal under s73 for the removal and variation of the 25-year limited period condition imposed by the Secretary of State. The intention is to extend power generation to March 2027, followed by a period of decommissioning to March 2028.
24. It is worth repeating the elements of national policy which are relevant to the nature of the proposal:

Amongst other matters Framework paragraph 154 provides that when determining planning applications for renewable development, local planning authorities should approve the application if its impacts are (or can be made) acceptable (there is then a reference to footnote 49).

Footnote 49 provides that "Except for applications for the repowering of existing wind turbines, a proposed wind energy development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in the development plan; and, following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been fully addressed and the proposal has their backing." (My underlining.)

25. So, aside from 'repowering' applications, wind farms need to be in an area identified as suitable and should have the backing of the local community. In this case there are no such suitable areas identified in the development plan, and there is very substantial local opposition (and support) such that it could not be said that the proposal has the backing of the local community.
26. The matter between the parties is whether this proposal is an application for repowering existing turbines. The Framework does not define the meaning of 'repowering'.
27. The appellant's position is that whilst approval of this s73 appeal would create a new permission, the development would remain the existing wind farm as approved in 1992 (including the subsequent amendment). Therefore, in policy terms, it is argued that the proposed extension of life is a 'repowering' application for the purposes of Footnote 49, and the appellant does not have to demonstrate that it is in an area identified for wind energy development, nor that the planning impacts identified by the affected local community have been fully addressed and the proposal has their backing¹⁹.

¹⁷ SOCG Section 5

¹⁸ SOCG Paragraph 5.1

¹⁹ As summarised in SOCG paragraphs 9.1 – 9.4

28. The Council's position²⁰ is that this is not a repowering scheme but a proposal for a new windfarm on the site. This is on the basis that the original planning permission has now expired and with reference to the Collins English Dictionary definition of 'repower' as "to rebuild or replace the power source or engine of a vehicle, power plant etc". The replacement of the turbines with significantly larger structures, as proposed on the site in 2015, would constitute repowering. However the Council's position is that the continuation of the life of the existing smaller turbines is not repowering. As such, it is argued that the starting point of the assessment should be the natural unaltered condition of the site. The appellant must therefore demonstrate compliance with Footnote 49 in relation to identification in the development plan and the issues raised by local communities²¹.
29. As mentioned above, there is no definition of 'repowering' in the Framework or in any other national policy or guidance to which I was referred. I therefore have to consider the relevance of Footnote 49 on the basis of the evidence and submissions put to me.
30. The Scottish Government's Onshore Wind Policy Statement²², although obviously not applicable in England, adopts a relatively wide approach to the question of repowering. However it also refers to measures designed to extend the life of components and turbines – in this case, despite comments by the appellant regarding the physical measures which may occur during an extended period so as to extend the life of the turbines, there are no physical measures before me.
31. The appellant argued persuasively that within the wind industry 'repowering' is an umbrella term covering replacement, replanting and extension of life, and this position was not evidentially contested. I am also conscious that there is nothing in the scheme before me which suggests that repowering necessarily means the physical replacement or the enlargement of turbines.
32. In addition, this is an area where (as the Council confirmed) the authority does not intend to identify any suitable areas for renewable or low-carbon energy for at least five years. The implication is that no wind farm developer wishing to extend the life of an existing scheme will be able to comply with the Footnote – it seems to me that it is unlikely that this is the intention of the Footnote.
33. Overall, in the absence of national guidance as to the meaning of the term, I consider that the proposal comprises repowering and that, accordingly, the proposal is not required to be in an area identified as suitable for wind energy development in the development plan or demonstrate that the planning impacts identified by the affected local community have been fully addressed and the proposal has their backing. However I should stress that this interpretation of Footnote 49 does not reduce the weight to be given to development plan policies, nor does it mean that the varied views of local people can be or should be ignored.

The character and appearance of the area, including the LDNP and WHS

²⁰ Supported by KMP

²¹ As summarised in SOCG paragraphs 9.5 – 9.6

²² CD 3.17

34. At the national level, the appeal site is within the South Cumbria Low Fells National Character Area 19, which is a very broad area stretching from the Duddon Estuary in the west, through fells and ridges, to more gentle farmland in the east. In the central section, including the area around the appeal site, the area is characterised by undulating fells and ridges. Turning to a more local appraisal, the site is within LCT 9i 'Intermediate moorland', and Sub Type 9d 'Ridges (Furness)'. The key characteristics of this area are distinct ridges with extensive areas of true heathland moorland. It is open access land and is part of an SSSI – but as this is a conservation designation I will deal with it separately.
35. The landscape in which the appeal site is located is notable for its openness and large-scale natural features, and the unenclosed moorland gives a feeling of wildness. The wind farm is a significant man-made element within this largely natural landscape, which has an impact both when one is on the moor and in the surrounding area.
36. The appellant's Landscape and Visual Impact Assessment (LVIA) was produced using a standard methodology and, with one exception, there is no significant challenge to it either in term of methodology or results – including the visualisations. The exception is that KMP noted that the LVIA did not consider key viewpoints within the site itself, and stated that this was a serious defect. Whilst I understand the appellant's position on this matter, given the public accessibility of the site I can well understand KMP's concern. However, even if I were to accept this as a deficiency, it is not of any great consequence as I have viewed the effect of the turbines from a wide range of viewpoints within the site itself.
37. The difference between the Council and the appellants relates to the interpretation of the impacts within the agreed area where there are significant effects on landscape character. This is a relatively localised area near the site itself and up to 5 kms away. The wider effects would be perceptible not only from the 'Ridges' Landscape Character Sub Type, but within the Intertidal Flats, Coastal Mosses; and Foothills²³. There would also be a significant indirect effect on the landscape character in a small area of the LDNP.
38. I visited all the areas and every location agreed by the main parties, and travelled extensively within the 5km area and beyond. The turbines are obviously visible from a large number of locations but, given the wide landscape and their relatively limited (in today's terms) height and number, my assessment is that the landscape is more than capable of continuing to assimilate the windfarm without significant harm to its essential character.
39. I am also mindful that the Secretary of State, in granting planning permission for the original development, noted that the site was not in a nationally designated area but accepted that the turbines would be visible from many places in and around Kirkby Moor. However it was stated that such harm as may have been caused by the visual impact of the windfarm was outweighed by the national need for sustainable energy sources.
40. In coming to that view I am conscious that the Cumbria Wind Energy Supplementary Planning Document (2007) (SPD) provides guidance on wind energy developments. There is no reason (as the Council suggested) to accord

²³ Full listing of landscape types at SOCG Section 6.3

it limited weight in the light of the approach of Footnote 49 of the Framework – it is a landscape capacity assessment and as such is unrelated to the Footnote. In any case the Council confirmed at the Inquiry that the SPD remains current and that it forms part of the evidence base for the emerging plan. Although the SPD is of a certain age, there is nothing to suggest that this assessment was wrong or that matters have significantly changed since it was produced.

41. The SPD shows the appeal site as being within an area categorised as having a Medium/High capacity for wind energy development. It is noteworthy that this assessment was undertaken with the Kirkby Moor windfarm in place. It provides that, in addition to Kirkby Moor, there was additional capacity for further turbines. The Council noted that the SPD assumes turbines of a significantly greater height and argued that this capacity could not be transferred to smaller structures. This seems to fly in the face of logic - if the area has the capacity for further, taller, turbines it is hard to disagree with the appellants' position that the SPD supports the current proposal.
42. The SOCG records that there would be no significant cumulative effects arising from the proposal in relation to other operational, consented and in the planning process wind farms. I have no detailed evidence leading me to disagree with this position.
43. Finally, as a further material consideration, I am aware that there is no objection to the proposal from the Lake District National Park Authority (to which I will return below) or Natural England.
44. I will now turn to the argument advanced by the Council that the area is a valued landscape in terms of paragraph 170(a) of the Framework. Amongst other matters this provides that "Planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)".
45. The Council argued that Kirkby Moor is a valued landscape in terms of this paragraph in national policy, and this assessment must have affected the way in which the authority considered the overall planning balance. However the paragraph clearly refers to statutory status or identification in the development plan. Although the site is close to the LDNP and the WHS, these designated areas do not include a buffer and the site is therefore outside the area covered by any statutory status. Nor is the site identified in the development plan. Although clearly appreciated by local people and visitors, this does not mean that it is a valued landscape in terms of national policy.
46. I now turn to the LDNP and the WHS. The nearest turbine is around 850 metres from the boundary of the LDNP. The Lake District was added to the UNESCO World Heritage List in 2017. It is noteworthy that the nomination documents for the designation were prepared with the Kirkby Moor windfarm in place and that its existence was therefore part of the baseline²⁴. I also note that the nomination documents refer to the potential of the area within and outside the designated area for wind turbine development²⁵. Furthermore the nomination documents do not list any viewpoints into or out of the designated

²⁴ Doc 7.3 page 546

²⁵ Doc 7.3 page 551

area in the vicinity of the turbines, although I agree that there is no significant difference between the quality of the landscape at the appeal site and in the LDNP.

47. It is agreed that there would be significant indirect effects on the landscape in part of the National Park, within a radius of up to 5 kms from the site²⁶. I visited the potentially affected area within the NP, and a wider area therein, and consider that the retention of the turbines would not detract to any significant degree from the understanding and enjoyment of the special qualities of the LDNP.
48. In coming to that view, I note that the LDNP Authority did not object to the proposal. It was suggested by KMP that the response of the authority exceeded its remit – especially in view of the consideration given to the SSSI outside the park area. Whilst the authority may not have been required to comment on the Habitat Management Plan and other matters, I do not see any reason why it should not have done so. In any event, despite the speculation at the Inquiry, it is not possible to identify the background to the LDNP's position. The only thing which is clear is that they have not objected to the proposal, and this is a significant material consideration.
49. I have also considered the effect on visual amenity of the residents of the 24 properties which are located within 1km of the turbines. As agreed by the parties, there are 16 where views of the turbines can be gained – I visited or obtained a view of all of these. My judgement is that no property would experience such an overbearing effect on visual amenity that the dwelling would become an unattractive place in which to live. Further afield, there would be a very limited degree of visibility and the turbines are very distant in views in the landscape. The effect on properties in scattered settlements and on isolated homes would be very limited indeed.
50. I have considered the evidence of local people as to the effect on the enjoyment of rights of way, both in visual and aural terms. Some said that the presence of the turbines deterred the use of the footpaths and the open access land. Others said it did not or even that it enhanced their enjoyment. No technical analysis was put forward to support the Council's position that policy dealing with rights of way was breached. Based on my visit and consideration of the policy in the absence of technical evidence, I do not find that the enjoyment of rights of way would be significantly affected by the proposal.
51. Overall, I consider that, at most, the proposal would cause limited harm to the character and appearance of the area and that the landscape is more than capable of assimilating the windfarm for a further period without significant harm to its essential character. The proposal would accord with policies CS1.1, CS7.7 and CS8.2 in that it would protect the countryside and landscape. It respects its locational context in line with DMDPD policies.

The effect on designated heritage assets

52. The reason for refusal did not specify the designated heritage assets which might be affected by the proposal²⁷. However these were subsequently identified and agreed by the parties. I visited all such identified assets. I will

²⁶ Full listing of landscape types at SOCG Section 6.3

²⁷ There was no reference to non-designated assets

deal with each of these in turn (in no particular order), before assessing the overall approach of the parties and reaching a conclusion.

53. St Cuthbert's Church, Beckside (Grade II*) lies to the southwest of the appeal site. Its interest stems from the medieval fabric of the building – in both architectural and historic terms. It is located in a settlement in an otherwise entirely rural area, and the heritage asset can be best understood and appreciated from various open areas within the settlement. From those locations the turbines (which were turning on the day of my visit²⁸) introduce a moving element in distant views beyond the church - which would otherwise be an almost entirely static landscape. To a very limited extent this detracts from the church, which would otherwise be the tallest manmade structure in the area. However, given the distance involved, any perceived conflict with or harm to the significance of the setting of the asset is very minor.
54. The church of St John the Evangelist, Netherhouses (Grade II) is to the southeast of the site. The special interest of the building lies in its architectural detailing, in particular the timber bellcote and spirelet and its historic association as a chapel of ease. In the latter context the rural setting adds to its significance as a destination for a dispersed rural congregation. From the churchyard, the turbines are distantly visible to the northwest. However due to the distance involved they do not significantly detract from the significance of the setting or the historic and isolated value of the asset, which would be subject to only minor harm to significance.
55. The Sir John Barrow Monument, Hoad Hill (Grade II*) lies around 5 kms to the south east of the site. It is an unusual structure, designed as a faux lighthouse atop the hill, commemorating the naval administrator and traveller. Its significance stems from its architectural concept and historic associations with Ulverston. Due to the latter, the eye tends to be drawn towards Ulverston, although there is nothing to prevent the observer looking to the northwest, in which direction the wind turbines can be seen on a clear day. Overall, the historic significance of the asset would be unaffected, as would what seem to me to be the most important views from the monument. However, in views to and from the appeal site and the distant Lake District, there would be minor harm to the aesthetic significance of the asset.
56. Kirkby Hall (Grade I) is a 15th century manor house due west of the appeal site. It has historic associations with certain local families – these would be unaffected by the continued presence of the turbines. Although I was not able to approach particularly close to the building, which is set back from the road, I could see some of the external features of interest which, apparently together with internal features, give the property architectural significance. It is set in a modern working farm and between it and the windfarm is the substantial quarry to which reference has already been made. From the tree-lined avenue and doubtless the house itself, the eye is drawn to the quarry, and the windfarm is a negligible element in the setting of the asset. I conclude that the significance of the asset would not be affected.
57. On the appeal site itself are a round mound and a cairn on the slopes of Gill House Beck. These Bronze Age remains have historic and archaeological interest, and the setting on the slope of the Beck is a typical location. The

²⁸ This applies to all the heritage assets

archaeological and historic interest of the assets would be retained as would its important relationship with the Beck – which is the main aspect of its setting²⁹. The relationship between the two elements is very slightly affected by the turbines, but this causes no harm to significance. In coming to this view I note that the Council initially raised no issue in relation to this feature until late in the appeal process, before which it had been stated to be unaffected. It could scarcely have been overlooked as it had been assessed in the appellant's earlier documents, is evident on the ground, and is shown on the Ordnance Survey extract.

58. Angerton Farmhouse and Barn (Grade II) lie a considerable distance to the west of the site. They were identified by the Council as assets which could be affected by the proposal, although the authority noted that 'close inspection of the property was not carried out due to access difficulties' and the Council's evidence was that the impact on setting was neutral - though reference was made to the retained authentic fabric and its aesthetic value. I visited the area and obtained clear views of the asset, from which it appears that the majority of the 17th century farmhouse has collapsed leaving only a gable attached to the wall of the 19th century barn – the rest of the farmhouse has been demolished and the site cleared. Even allowing for the fact that the remaining structure is Listed, its interest is substantially reduced. There would be no effect on the significance of the asset.
59. National policy is that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. I will return to this balancing exercise below. However there was a difference between the parties as to whether there was merit in introducing a sliding scale within this 'less than substantial' category. The appellant undertook this exercise, whereas the Council did not. Certainly, given the range of harm covered by this category, I found it useful to understand the appellant's position more clearly, but this is an approach not required by policy.
60. As set out above there is 'less than substantial harm' (in the terminology of the Framework) to three designated heritage assets. However, as I will discuss below, the proposed extension of life of the windfarm would provide a very substantial public benefit in terms of the continuation of sustainable energy generation from the site along with a much enhanced decommissioning proposal and a new restoration scheme. This very substantially outweighs the harm (for a further limited period) occasioned to the assets, which would be safeguarded in terms of the relevant policies dealing with heritage³⁰.

The extent of any benefit arising from the decommissioning and restoration schemes

61. The extent of the benefit arising from the DMS and the HMP occupied a reasonable amount of Inquiry time and evidence. However the position can be stated relatively briefly.
62. The plateau of which the appeal site forms part is largely managed heather moorland (dwarf shrub heath). Much of the appeal site, which extends well beyond the turbine area itself, is part of the Kirkby Moor SSSI in recognition of

²⁹ The SOCG states that there are no effects on below ground archaeology

³⁰ CS1.1; CS8.6; DM3; DM21

its upland heath habitat as heather moorland. It was designated as a SSSI in the early 1990s, when the windfarm was in place. It is a resource limited to northern Europe and is a scarce habitat within South Cumbria – Kirkby Moor is the largest area of this habitat in the region. The SSSI as a whole is designated as “unfavourable recovering” by Natural England. KMP’s position is that the site is unique and that this is the only windfarm on intact heather moorland in England, and that the site is of particular consequence due to its location between two estuaries.

63. Comparison can be made between the DMS and the HMP and the position if the Secretary of State’s condition were complied with. This condition simply requires the removal of the turbines and no removal of other structures, other work or remediation.
64. Whilst it is true that the landowner or other party could choose to undertake further works, there is nothing to require them to do so. KMP suggested that the remaining “ancillary equipment can be removed by other mechanisms” and the landscape restored, but did not put forward any mechanism which would lead to this outcome.
65. Weight can be attached in the overall balance to a restoration proposal in an SSSI. KMP asserted that the extent of the decommissioning and restoration is a “tiny element” in the context of the overall SSSI. In terms of geographical area this may well be true. However the removal of all the structures and the intended mitigation measures is of considerable importance in the local area. The restoration of around 1.25 ha of priority habitat would be of undoubted benefit.
66. The mitigation measures are a component of the overall scheme and would result in a significant positive effect. I have no evidence to counter this and conclude that it would help move the SSSI from its current “unfavourable-recovering” position to a more favourable status.
67. In coming to that view, I am aware that Natural England has confirmed that it has no objection to the proposal and that it welcomes the HMP.
68. Some members of the public have suggested that the appellant was acting inappropriately by offering more mitigation than was required by the original permission. I do not accept that this is in any way inappropriate. The Secretary of State’s original permission was a child of its time, and its conditions were of that era. In the current climate it is proper and necessary that the current appeal be considered in the light of modern practice.
69. Overall, the current proposal would result in a significantly better outcome for the SSSI (albeit partly some years hence) and this is a significant benefit arising from the DMS and the HMP. The proposal complies with policies DM1 and DM21 in relation to biodiversity and nature conservation.

The extent of any benefit arising from renewable energy generation

70. The Council and the appellant agree³¹ that this appeal is not an appropriate forum for debating national energy policy, and that the proposal would contribute to the national objective of promoting renewable energy technologies. I agree with that position. KMP’s view was that the energy

³¹ SOCG paragraph 6.6

contribution from the scheme “does not really matter in the context of harm”. However relevant parts of national and European energy policy³² are clearly material considerations to be taken into the planning balance.

71. Some local residents and others noted that the turbines are old technology in wind energy terms, and that their power generation is comparatively limited. Reference was also made to the turbines not turning for periods of time.
72. The clear evidence before me is that the windfarm, though doubtless dated and potentially comparatively inefficient, continues to generate power. Clearly if the windfarm were proposed afresh today it would be a very different animal, but the fact is that the windfarm is in place and continues to contribute to the national objective of promoting renewable energy. This is in the context, based on the evidence before me, that there is likely to be a shortfall of up to 3% against the 2020 renewable share target.
73. With that background, even a time limited and comparatively small proposal such as this makes some contribution to renewable energy objectives. It was agreed that the windfarm provides energy to power around 2,700 homes.
74. Overall, the continuation of the generating capacity of the windfarm is a significant benefit arising from the proposal and is in line with national and local policy³³.

Other material considerations

75. Part of the Council’s reason for refusal alleged that the continuation of the life of the windfarm would have an adverse impact on the local economy. However this was not pursued to any extent in evidence or submissions, aside from limited anecdotal statements. I give this very little weight.
76. Noise issues were raised by a number of residents and others who spoke at the Inquiry. The appellant submitted a rebuttal document in this respect, and no technical evidence has been produced to counter their position. In addition an ETSU_R_97 compliant noise condition is currently proposed, which is a considerable benefit of the scheme as opposed to the original permission.
77. Some local residents gave evidence concerning the community led initiative (the Southern Boundary Partnership) related to the possible future extension of the National Park. This was not a matter advanced by the Council in evidence. It was clear from residents’ evidence that this concept is at a very early stage, and bearing in mind that the most recent extensions to the designated area were adopted as recently as 2015, it appears that the Partnership’s idea will take some time to bear fruit. In any event, I heard that the proposed extension would include other wind farms and turbines. I do not consider that the proposed extension of life of the windfarm would be pivotal to the success of the initiative (as was asserted for KMP).
78. KMP took a full part in the Inquiry and produced evidence from a number of witnesses, most of whom live within a 5km radius of the site. Most of those representing KMP have been resident for a considerable period of time and have supported the group in its long-standing opposition to the windfarm. Many of the residents who opposed the proposal stated that the turbines

³² Set out in SOCG Appendix 1

³³ Policies CS1.1; CS7.7; DM21

should have been a temporary intrusion – albeit one lasting for 25 years – and that they should be removed. I have also considered the two letters submitted by the local MP.

79. Conversely, both in writing and at the Inquiry, a significant number of local residents and others wrote and spoke in support of the proposal. In that I include a very large petition in favour of the proposal. The support was for a range of reasons, largely related to renewable energy generation and the view that the turbines are an established part of the landscape.

Conditions and planning obligation

80. The conditions appended to this decision were agreed by the parties at the Inquiry.
81. Condition 1 provides that permission to generate electricity shall expire in March 2027 and that above ground infrastructure shall be removed within one year afterwards. This is essentially the proposal before me and is also the subject of the planning obligation.
82. Condition 2 deals in detail with noise issues and the procedure to be adopted in the event of noise complaint. It is ETSU_R_97 compliant. This is in the interests of the amenity of residents and others in the area. This condition is accompanied by a set of guidance notes. Overall, the condition and notes are in what is currently regarded as a standard form, and no objection has been raised to any detail.
83. Condition 3 limits the hours during which decommissioning may take place. Again, this is in the interests of the amenity of others in the area.
84. The s106 Obligation requires that the DMS and HMP be carried out.
85. The DMS provides a 12-month decommissioning and reinstatement period, including flexibility to allow for ecological constraints such as hibernation and nesting periods. The intention is that most of the physical decommissioning would take around two months. The decommissioning works, based at a temporary compound in the slate quarry, include the removal of the turbines, bases, transformer housings, the capping of cables, the reinstatement of soils and the restoration of the area around the turbines. This represents a significant improvement to the requirement of the Secretary of State's condition.
86. The HMP sets out the proposals for habitat management and restoration during the extended life of the windfarm and the subsequent decommissioning phase. In particular it deals with an area of around 1ha of dry dwarf shrub heath – currently an area of degraded heather moorland. Hydrological restoration would be achieved by the installation of pipes to reconnect the mires on the Old Kirkby Slate Road. Following decommissioning the habitat around each turbine site would be fenced to exclude grazing livestock, so as to allow the restoration of the heathland. This is a new and beneficial element going beyond the original condition, and is a significant benefit.
87. All the provisions are directly related to the proposal and are necessary to make the development acceptable in planning terms. Therefore, I consider that the Obligation meets the policy in paragraph 56 of the Framework and the

tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010. I have therefore taken it into account and given it significant weight.

Planning balance and conclusion

88. Read as a whole, the development plan promotes renewable energy in appropriate locations as a means of mitigating climate change. This is most succinctly set out in DMDPD policy DM21, which encourages renewable energy development where landscape impact is minimised, the historic environment is respected and impact on nature conservation interests is avoided. Other policies adopt essentially the same approach.
89. In this case, as set out above, there would be some limited harm to the character and appearance of the area, but the landscape is more than capable of assimilating the windfarm for a further period without significant harm. Three designated heritage assets would experience less than substantial harm, but this is outweighed in the heritage and planning balance by the public benefits.
90. The appeal proposal is for a relatively short extension of life of the windfarm linked to the subsidy regime. The time limited nature of the proposal is a material consideration when assessing landscape effects and the effect on the setting of heritage assets. This aspect appears to have been a consideration for the National Park Authority and Natural England. The Council did not deal with the issue of reversibility in evidence, although the authority accepted at the Inquiry that it was an important consideration. I agree with that position.
91. There would be a significant benefit arising from the DMS and the HMP in terms of biodiversity and nature conservation. In addition, the continued life of the windfarm accords with policy at all levels which encourage continuing renewable energy generation.
92. I am very conscious of the strongly held views, on both sides of the argument, especially the views of the relevant Parish Councils. A considerable volume of representations has been received and these are important material considerations. They are one of the matters which I have taken into account in the planning balance.
93. Overall, the continuation of the life of this windfarm for a further limited period would provide benefits in terms of the production of renewable energy and would include decommissioning and restoration advantages. These matters outweigh the limited harm which the proposal would cause for the remainder of the life of the installation.
94. For the reasons given above I conclude that the appeal should be allowed.

P. J. G. Ware

Inspector

Schedule of conditions
APP/M0933/W/18/3204360

Condition 1:

Permission to generate electricity shall expire on 31 March 2027. Each of the turbines and their associated above ground infrastructure, excluding access tracks shall be removed from the site by no later than 31 March 2028, or within one year of all of the turbines becoming disused for any reason, whichever is the sooner.

Condition 2:

The rating levels of the noise immission from the wind turbines, (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in Tables 1 and 2 attached to these conditions and:

(a) Within three (3) months of the date of this permission the wind farm operator shall submit to the Local Planning Authority for written approval a list of proposed qualified acousticians who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall only be made with the prior written approval of the Local Planning Authority.

(b) Within twenty one (21) days from receipt of a written request from the Local Planning Authority and following the receipt of a complaint alleging noise disturbance at a dwelling, the windfarm operator shall, at its own expense, employ a consultant approved in writing by the Local Planning Authority, to assess the level of noise immission from the windfarm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Planning Authority shall set out at least a date, time and location that the complaint relates to and identify meteorological conditions they consider relevant to the cause of complaint. Within fourteen (14) days of receipt of the written request of the Local Planning Authority made under this paragraph (b), the windfarm operator shall provide the information logged in accordance with paragraph (h) to the Local Planning Authority in the format set out in Guidance Note 1(e), for the period that the complainant alleges the noise disturbance occurred.

(c) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the windfarm operator shall submit in writing to the Local Planning Authority for written approval, proposed noise limits selected from those listed in the tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the tables specified for a listed location which the qualified acoustician considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the Local Planning Authority shall include a written justification of the choice of the representative background noise environment provided by the qualified acoustician. The representative background noise environment and proposed noise limits shall be submitted in writing within thirty five (35) days of the initial notification to the windfarm operator of the complaint. These are to be submitted to the Local Planning Authority for their written approval. The rating level of noise immission resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainant's dwelling.

(d) Prior to the commencement of any measurements by the qualified acoustician to be undertaken in accordance with these conditions, the windfarm operator shall submit in writing to the Local Planning Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where

measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits set out in the tables attached to these conditions or approved by the Local Planning Authority pursuant to paragraph (c) of this condition shall be undertaken at the measurement location approved in writing by the Local Planning Authority.

(e) Prior to the written submission of the qualified acoustician's assessment of the rating level of noise

immission in accordance with paragraph (f), the windfarm operator shall submit in writing to the Local Planning Authority for written approval a proposed assessment protocol setting out the following:

i. The range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immission;

ii. A reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance owing to noise, having regard to the written request of the Local Planning Authority and any conditions the authority identify under paragraph (b), and such others as the qualified acoustician considers likely to result in a breach of the noise limits. The assessment of the rating level of noise immission shall be undertaken in accordance with the assessment protocol approved in writing by the Local Planning Authority.

(f) The wind farm operator shall provide to the Local Planning Authority the qualified acoustician's written assessment of the rating level of noise immission undertaken in accordance with the Guidance Notes within two months of the date of the written request of the Local Planning Authority made under paragraph (b) unless the time limit is extended in writing by the Local Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Planning Authority with the qualified acoustician's assessment of the rating level of noise immission.

(g) Where a further assessment of the rating level of noise immission from the wind farm is required pursuant to paragraph 4(c) of the attached Guidance Notes, the wind farm operator shall submit in writing a copy of the further assessment within twenty one (21) days of submission of the qualified acoustician's assessment pursuant to paragraph (f) above unless the time limit has been extended in writing by the Local Planning Authority.

(h) The wind farm operator shall continuously log power production, nacelle wind speed, at each wind turbine all in accordance with Guidance Note 1(d) as well as the wind speed measured or calculated at hub height. Rainfall shall be measured during any noise measurement regime at a representative location. These data shall be retained for a period of not less than twenty four (24) months. The wind farm operator shall provide this information in writing in the format set out in Guidance Note 1(e) to the Local Planning Authority on its request, within fourteen (14) days of receipt in writing of such a request.

For the purposes of this condition, a 'dwelling' is a building which is lawfully used as a habitation and which exists or had planning permission at the date of this consent.

Table 1 - Between 23:00 and 07:00: Noise level (dB LA90, 10-minute).

Location (Easting, Northing)	Wind speed (ms) as standardised to 10m height											
	1	2	3	4	5	6	7	8	9	10	11	12
Friar's Ground (324125, 482704)	43	43	43	43	43	43	43	43	43	44	44	44
Croglin Farm (324066, 483491)	43	43	43	43	43	43	43	43	43	43	43	43
Beanthwaite (324894, 484667)	43	43	43	43	43	43	43	43	43	43	43	43
Parkgate (327047, 484325)	43	43	43	43	43	43	43	43	43	43	43	43
Groffa Crag (327078, 483714)	43	43	43	43	43	43	43	43	43	43	43	43
Moor House (326792, 482695)	43	43	43	43	43	43	43	43	43	43	43	43
Rathvale (325683, 481007)	43	43	43	43	43	43	43	43.4	46.1	47.9	47.9	47.9
Heather Cottage (326733, 484662)	43	43	43	43	43	43	43	43	43	43	43	43
High Ghyll (324379, 482478)	43	43	43	43	43	43	43	43	43	44	44	44

Table 2 - Between 07:00 and 23:00: Noise level (dB LA90, 10-minute)

Location (Easting, Northing)	Wind speed (ms) as standardised to 10m height											
	1	2	3	4	5	6	7	8	9	10	11	12
Friar's Ground (324125, 482704)	35	35	35	35	35	35.2	37.1	39.4	41.9	44.7	47.6	47.6
Croglin Farm (324066, 483491)	35	35	35	35	35	35.4	36.8	38.4	40.4	42.7	45.4	45.4
Beanthwaite (324894, 484667)	35	35	35	35	36	37.6	39.3	41	42.9	44.8	46.7	46.7
Parkgate (327047, 484325)	35	35	35	35	35	35	35	36	36.8	37.6	38.2	38.2
Groffa Crag (327078, 483714)	35	35	35	35	35	35	35	36.4	38.7	41.8	45.8	45.8
Moor House (326792, 482695)	35	35	35	35	35	35	35.3	36.8	38.6	40.8	43.4	43.4
Rathvale (325683, 481007)	35	35	35	36.8	38.9	41.3	43.8	46.3	48.8	51.3	53.5	53.5
Heather Cottage (326733, 484662)	35	35	35	35	35.3	37.1	38.7	40	41	41.8	42.4	42.4
High Ghyll (324379, 482478)	35	35	35	35	35	35.2	37.1	39.4	41.9	44.7	47.6	47.6

Note to Tables 1 and 2: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

Condition 3:

Decommissioning work shall only take place between the hours of 07:00 – 19:00 hours on Monday to Friday inclusive, 07:00 – 13:00 hours on Saturdays with no decommissioning work on a Sunday, Bank or Public Holiday. Outwith these hours, works at the site shall be limited to emergency works and dust suppression. The Local Planning Authority shall be informed in writing of emergency works within three working days of occurrence.

The recommendations to control noise listed in the assessment provided with the application shall be employed.

Guidance Notes for Noise Conditions

These notes are to be read with and form part of condition 2. They further explain the condition and specify the methods to be deployed in the assessment of complaints about noise immission from the wind farm. The rating level of noise at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Note 3. Reference to ETSU-R-97 refers to the publication entitled *The Assessment and Rating of Noise from Wind Farms* (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI). Reference to 'A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise' refers to the Institute of Acoustics document published in May 2013.

Note 1

(a) Values of the L_{A90} ten-minute noise statistic should be measured at the complainant's property at the approved location, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 2014 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The microphone shall be mounted at 1.2-1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved by the Local Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in 'free field' conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall

be undertaken at the approved alternative representative measurement location approved in writing by the Local Planning Authority.

(c) The L_{A90} ten-minute measurements should be synchronised with measurements of the ten minute arithmetic average wind speed and with operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s), and arithmetic mean wind direction in degrees from north and rainfall data in each successive ten minute period by direct measurement at the permanent meteorological monitoring location and also the rainfall location identified and as approved in writing by the Local Planning Authority. The mean wind speed data shall be measured or calculated at turbine hub height then 'standardised' to a reference height of ten metres as described in ETSU-R-97 at page 120, using a reference roughness length of 0.05 metres. The standardised wind speed measurements shall be correlated with the noise measurements for comparison with Tables 1 and 2 in the condition. It is this procedure, which is determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c). All ten minute periods shall commence on the hour and in ten minute increments thereafter, synchronised with Greenwich Mean Time.

(e) Data provided to the Local Planning Authority in accordance with paragraphs (f) (g) and (h) of the noise condition and as described in this note shall be provided in comma separated values in electronic format unless otherwise agreed in writing with the Local Planning Authority.

(f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immission. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with note 1(d).

Note 2

(a) The noise measurements should be made so as to provide not less than twenty valid data points as defined in Note 2 paragraph (b).

(b) Valid data points are those measured in the conditions set out in the assessment protocol approved by the Local Planning Authority under paragraph (e) of the noise condition or arising under the specified meteorological conditions leading to complaint but excluding any periods of rainfall identified in the condition.

(c) Values of the L_{A90} ten-minute noise measurements and corresponding values of the ten minute, standardised wind speed for those data points considered valid in accordance with Note 2 paragraph (b) shall be plotted on an XY chart with noise level on the Y-axis and wind speed on the X-axis. A least squares or logarithmic, best fitting curve of an order deemed appropriate by the qualified acoustician (but which may not be higher than a third order) should be fitted to the data points to define the wind farm noise level at each integer wind speed.

Note 3

(a) Where in accordance with the approved assessment protocol under paragraph (e) of the noise condition, noise immission at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.

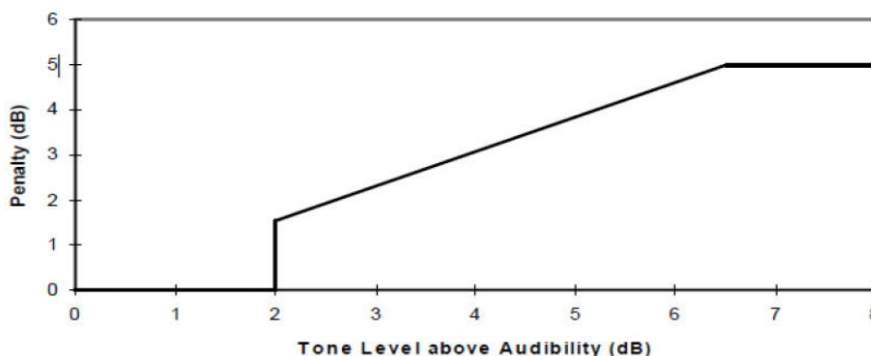
(b) For each ten minute interval for which L_{A90} ten minute data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise immission during two minutes of each ten minute period. The two minute periods should be spaced at ten minute intervals provided that uninterrupted uncorrupted data are available ('the standard procedure'). Where uncorrupted data are not available, the first available uninterrupted clean two minute period out of the affected overall ten minute period shall be selected. Any such deviations from standard procedure shall be reported.

(c) For each of the two minute samples the tone level above audibility (L_{ta}), shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97.

(d) The tone level above audibility (L_{ta}) shall be plotted against wind speed for each of the two minute samples. For samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be recorded.

(e) A least squares 'best fit' linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the 'best fit' line fitted to values within ± 0.5 m/s of each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below:



Note 4

(a) If a tonal penalty is to be applied in accordance with Note 3, the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Note 2 and the penalty for tonal noise as derived in accordance with Note 3 above at each integer wind speed

within the range set out in the approved assessment protocol under paragraph (e) of the noise condition.

(b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best-fit curve described in Note 2.

(c) In the event that the rating level is above the limit(s) set out in the tables attached to the noise condition or the noise limits for a complainant's dwelling approved in accordance with paragraph (c) of the noise condition, the qualified acoustician shall undertake a further assessment of the rating level to correct for background noise so that the rated level relates to wind turbine noise immission only.

(d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the qualified acoustician or the Local Planning Authority requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

(e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L_3) at each integer wind speed within the range requested by the Local Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.

(f) The wind farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log_{10} [10^{0.1 L_2} - 10^{0.1 L_3}]$$

(g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L_1 at that integer wind speed.

(h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required) at any integer wind speed lies at or below the values set out in the tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (c) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the tables attached to the conditions or the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (c) of the noise condition then the development fails to comply with the conditions.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:
Mr T Leader of Counsel
He called

Mr J Etchells MA BPhil CMLI	Director, Jon Etchells Consulting Limited
Mr C O'Flaherty BSc MSc MRICS	Heritage planning consultant and senior lecturer
Mr S Wood BA(Hons) BTP MRTPI	Regional Planning and Building Control Manager, Urban Vision

FOR THE APPELLANT:

Mr D Hardy

He called	
Dr J Huckle BSc(Hons) Msc MCIEEM CEnv	Director, Huckle Ecology Limited
Mr B Denny BA(Hons) DIPLA FLI CENV MIEMA	Regional Director (Environment) Pegasus Group
Ms L Garcia BA(Hons) MCIfA	Associate Heritage Consultant, Pegasus Group
Mr C Calvert BSc(Hons) MA MRTPI	Executive Director (Planning) Pegasus Group

FOR KIRKBY MOOR PROTECTORS (KMP):

Mr G Sinclair who also gave evidence

He called	
Mr G Sinclair	Director, Environment Information Services
Ms L Wall BSc(Hons) MA MRTPI	Friends of the Lake District
Mr D Savage	Local resident
Cllr C Pickthall	(In a personal capacity)
Cllr A Hall MBE	SLDC Councillor
Cllr H Graves	Parish Councillor
Mr J Hudson	Local resident
Ms G Scott	Local resident
Mr I Hubbard	Local resident
Ms L Cooper	Local resident
Mrs V Johnstone	Local resident
Cllr J Airey	SLDC and CC Councillor
Cllr M McPherson	Parish Councillor
Cllr M Mitchell	Parish Councillor
Cllr I Winstanley	Parish Councillor
Cllr M Brereton	SLDC and CC Councillor
Cllr I Jones	Parish Councillor
Cllr G Sanderson	Parish Councillor
Mrs D Rutherford	Local resident
Ms A Carmichael	Local resident
Ms R Thomas	Local resident

INTERESTED PERSONS:

Mrs A McKown	Resident of Rochdale
Dr K Rawles	Local resident
Mr W Shaw	Local resident
Dr R Towler	Local resident

Mr D Binks	Team Leader, Mountain Rescue Team
Ms A Stirzaker	Local resident
Mr R Long	Local resident
Ms D Munro	Local resident
Mr Gilbert	Local resident
Mr Howlett	Ulverston Green Party (submitted petition)
Mr M Keegan	Local resident
Ms R Bagshaw	Holker Estates

INQUIRY DOCUMENTS

1	List of persons present at the Inquiry
2	Council's repowering documentation: PNE repowering German windfarms MHCLG response to draft NPPF consultation Renewable and low carbon energy guidance Three steps to turbine repowering California Energy Commission – scoping level study
3	KMP additional documents: Parish Council data and map Hampsthwaite decision APP/E2734/W/18/3200922 Kirkby Moor decision COM/3160859 Natural England standards
4	Bundle of letters of representation handed in at the Inquiry
5	Scout Moor decision APP/B23/55/V/15/3139740
6	Statement by Dr Rawles
7	Letter (24/12/18) from John Woodcock MP
8	Appeal decision at 293 Bradgate Road APP/X2410/W/18/3204941
9	Statement by Mr Shaw
10	Kirkby Moor Community Benefit Fund April 2013 – March 2014
11	Letter (25 January 2019) from John Woodcock MP
12	Council's schedule of development plan policies and weight
13	Dr Towler's statement
14	Summary of Ms Stirzaker's statement
15	Winash wind farm report
16	Mr R Long's statement
17	Mr P Howlett's statement
18	Mr S Filmore's statement
19	Mrs J Filmore's statement
20	Broughton Community Plan 2016
21	GLVIA Box 5.1
22	Keswick to Barrow walk details
23	Mr Gilbert's statement
24	Cover sheet to petition in favour of the proposal
25	Mr Howlett's statement
26	Mr Long's statement
27	Ms Stirzaker's statement
28	Ms Stirzaker's supplementary statement
29	Dr Towler's statement
30	Statement from Duddon and Furness Mountain rescue team
31	Closing submissions by KMP
32	Closing submissions by the Council

33	Closing submissions by the appellant, 'repowering' document, submissions on cultural heritage
34	Planning Obligation (19 March 2019)

CORE DOCUMENTS ('K' prefix indicates KMP document)

1. Adopted development plan and emerging development plan	
1.1	South Lakeland Local Plan Core Strategy (2010) (relevant policies only)
1.2	Saved policies of the South Lakeland Local Plan (2006) (relevant policies only)
1.3	Cumbria Wind Energy Supplementary Planning Document (2007)
1.4	South Lakeland Local Plan Part 3-Submission Development Management Policies DPD (submitted for examination February 2018) (relevant policies only)
1.5	Letter of 28 June 2018, from the Inspector Mr Philip Lewis, to SLDC in relation to the emerging Development Management Policies DPD
K1.6	Local Plan 2018 text
2. National planning policy	
2.1	DCLG: National Planning Policy Framework (March 2012)
2.2	MHCLG: Draft Revised National Planning Policy Framework (March 2018)
2.3	MHCLG: National Planning Policy Framework (July 2018)
2.4	DCLG: National Planning Practice Guidance (June 2015 - Online resource) Planning for Renewable and Low Carbon Energy (relevant extracts only)
2.5	DECC: Overarching National Policy Statement for Energy EN-1 (July 2011)
2.6	DECC: National Policy Statement for Renewable Energy Infrastructure EN-3 (July 2011)
2.7	Written Ministerial Statement (HCWS42) relating to Local Planning and Wind Energy Development, issued by the Secretary of State for Communities and Local Government (Greg Clark) (June 2015)
2.8	Letter from MHCLG dated 22 nd November 2018
3. Renewable energy and climate change documents	
3.1	DECC: UK Renewable Energy Roadmap (July 2011)
3.2	DECC: UK Renewable Energy Roadmap Update (December 2012)
3.3	DECC: Onshore Wind, Direct and Wider Economic Impacts (May 2012)
3.4	DECC: UK Renewable Energy Roadmap Update (November 2013)
3.5	DECC: Digest of UK Energy Statistics (DUKES) (2018)
3.6	European Commission 'Renewable Energy Progress Report' (February 2017)
3.7	DECC: Secretary of State speech on new direction for UK Energy Policy, November 2015
3.8	Committee on Climate Change, 9 th Annual Assessment, January 2017
3.9	DECC: letter on EU 2020 Renewables Target 29 October 2015
3.10	Community Engagement for Onshore Wind Developments: Best Practice Guidance, Department of Energy and Climate Change (October 2014)
3.11	Clean Growth Strategy, HM Government (as updated April 2018)
3.12	The UK Renewable Energy Strategy, HM Government (2009)
3.13	House of Commons - Energy and Climate Change Committee, 2020 renewable heat and transport targets, Second Report of Session 2016–17, September 2016
3.14	Reducing UK emissions – 2018 Progress Report to Parliament, Committee on Climate Change, June 2018
3.15	UK Statement at the Paris Agreement Signing Ceremony - "The Paris Agreement proves that the transition to a climate-neutral and climate-resilient world is happening.", Published 25 April 2016
3.16	"Global Warming of 1.5 °C, an IPCC special report on the impacts of global warming of 1.5 °C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty", IPCC, October

	2018
3.17	'Onshore Wind Policy Statement' for Scotland (Dec 2017)
3.18	Renewable UK response to National Planning Policy Framework (NPPF), May 2018
4. Legislation and caselaw	
4.1	Suffolk Coastal District Council v Hopkins Homes Ltd UKSC 2016/0076 and Richborough Estates Partnership LLP v Cheshire East Borough Council UKSC 2016/0078
4.2	Barwood Strategic Land II LLP v (1) East Staffordshire Borough Council (2) SSCLG [2017] EWCA Civ 893
4.3	Palmer v Herefordshire Council and Another [2016] EWCA Civ 1061
4.4	Forest of Dean DC v SSCLG and Gladman Developments Ltd [2016] EWHC 421
4.5	R (Leckhampton Green Land Action Group Ltd) v Tewkesbury BC [2017] EWHC 198
4.6	R (on the application of Holder) v Gedling Borough Council [2018] EWCA Civ 214
4.7	Williams vs Powys CC & Bagley [2017] EWCA Civ 427
4.8	Catesby Estates Ltd Vs Peter Steer & Historic England [2018] EWCA Civ 1697
4.9	National Park and Access to the Countryside Act 1949
4.10	Planning (Listed Building and Conservation Areas) Act 1990 (Section 66)
4.11	The Town and Country Planning (Development Management Procedure) (England) Order 2015
4.12	Wildlife and Countryside Act 1981
4.13	Countryside and Rights of Way Act 2000
4.14	The Community Infrastructure Levy Regulations 2010 (Relevant Extracts)
4.15	R v Coventry City Council ex p. Arrowcroft Group plc [2001] PLCR 7
4.16	Regina (Wet Fishing Works Ltd) v Taunton Dene Borough Council [2017] EWHC 1837 (Admin)
4.17	Finney v Welsh Ministers [2018] EWHC 3037 (Admin)
5. Appeal decisions	
5.1	Kirkby Moor (5/90/2312)
5.2	Carland Cross (APP/D0840/A/09/2103026)
5.3	New Rides Farm (APP/V2255/W/15/3014371)
5.4	Withernwick II (APP/E2001/W/15/3133812)
5.5	Mean Moor and Harlock Hill (APP/M0933/A/13/2203115)
5.6	Earls Hall Farm, Clacton-on-Sea (APP/P1560/A/08/2088548)
5.7	Enifer Downs (APP/X2220/A/08/2071880)
5.8	Burnthouse Wind Farm (APP/YR09/0392/F)
5.9	Beech Tree Farm (APP/K1128/A/08/2072150)
5.10	Burnham-on-Sea, Somerset (APP/V3310/A/06/2031158)
5.11	Sixpenny Wood (APP/E2001/A/09/2101851)
5.12	Chelveston Renewable Energy Park (APP/G2815/A/11/2160077)
5.13	Cleek Hall (APP/N2739/A/12/2172629)
5.14	REFERENCE NOT IN USE
5.15	Watford Lodge (APP/Y2810/A/11/2153242)
5.16	Nun Wood (APP/Y0435/A/10/2140401; APP/K0235/A/11/2149434; APP/H2835/A/11/2149437)
5.17	Starbold wind farm (APP/J3720/A/13/2193579)
5.18	Holme-on-Spalding Moor (known as River Valley Wind Farm) (APP/E2001/A/13/2207817)
6. Landscape character and visual effects	
6.1	Reference not in use
6.2	The Countryside Agency: Landscape Character Assessment: Guidance for England and Scotland (2002)
6.3	Visual Representation of Development Proposals (Landscape Institute Advice Note 02/17)

6.4	Scottish Natural Heritage: Visual Representation of Wind Farms – Good Practice Guidance Version 2.2 (February 2017)
6.5	Scottish Natural Heritage: Siting and Designing Windfarms in the Landscape, Version 3 (February 2017)
6.6	Scottish Natural Heritage: Guidance Assessing the Cumulative Impact of Onshore Wind Energy Developments, Version 3 (March 2012)
6.7	National Character Area Profile: 19: South Cumbria Low Fells, Natural England
6.8	Cumbria Landscape Character Guidance and Toolkit (March 2011)
6.9	Reference not in use
6.10	A Guide to Using the Cumbria Historic Landscape Characterisation Database for Cumbria’s Planning Authorities, Cumbria County Council (2009)
6.11	A Landscape Strategy for Lancashire – Landscape Character Assessment, Environmental Resources Management (2000)
6.12	Lake District National Park Landscape Character Assessment and Guidelines (2008)
6.13	Cumulative Impacts of Vertical Infrastructure, Cumbria County Council (2014)
6.14	Management Plan for the Lake District National Park (2015-2020)
7. Cultural heritage	
7.1	Historic England: Historic Environment Good Practice Advice Planning Note 3: The Setting of Heritage Assets (2015)
7.2	Historic England: Historic Environment Good Practice Advice Planning Note 3: The Setting of Heritage Assets (2 nd Edition 2017)
7.3	Lake District World Heritage Site Nomination Dossier, Volume 1
7.4	Historic England: Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision-Taking in the historic Environment (2015)
7.5	Historic England: Conservation Principles, Policies and Guidance For the sustainable management of the historic environment (2008)
7.6	Historic England: Conservation Principles For the sustainable management of the historic environment (consultation draft 2017)
7.7	Piloting an approach to heritage assessment and information requirements - ‘Heritage assessment and information requirements’ – Draft Guidance for Consultation, Lake District National Park Authority, July 2017
K7.8	WHC decision
K7.9	WHC Operational Guidelines
8. Ecology	
8.1	Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater and Coastal, 2nd edition. Winchester: Chartered Institute of Ecology and Environmental Management, CIEEM (2018)
8.2	Research and guidance on restoration and decommissioning of onshore wind farms, Scottish Natural Heritage, SNH(2013)
8.3	REFERENCE NOT IN USE
8.4	Technical Appendix 7.6 Kirkby Slate Quarry Expansion Habitat Management Plan, Atmos Consulting (2016)
8.5	The Works on Common Land (Exemptions) (England) Order 2007, The Planning Inspectorate (2007)
8.6	Kirkby Moos SSSI Citation
8.7	Kirkby Moor SSSI – Views about Management
8.8	DEFRA – Net Gain – Consultation Proposals – December 2018
K8.9	KM SSSI Further docs
K8.10	A Green Future
9. Local economy and tourism	
9.1	Wind Farms and Tourism Trends in Scotland, BIGGAR Economics (July 2016)
9.2	The Economic Impact on Wind Farms on Scottish Tourism (MOFFAT Centre et al), (March 2008)
10. Application documents	

10.1	Planning application forms including site ownership and agricultural holdings certificates
10.2	Planning Statement (July 2017)
10.3	Consultation Report (July 2017)
10.4	Flood Risk Assessment (June 2017)
10.5	Environmental Statement: NTS (July 2017)
10.6	Environmental Statement: Vol 1 Written Statement (July 2017)
10.7	Environmental Statement: Vol 2 Figures (July 2017)
10.8	Environmental Statement: Vol 3 Visualisations (July 2017)
10.9	Environmental Statement: Vol 4a Appendices part 1 (July 2017)
10.10	Environmental Statement: Vol 4b Appendices part 2 (July 2017)
10.11	Officer report to committee
10.12	Letter from Squire Patton Boggs dated 30 th November 2017
10.13	Letter from Pegasus Group to South Lakeland District Council dated 1 st December 2017
10.14	Officer update to committee (5 th December 2017)
10.15	Minutes of committee meeting (5 th December 2017)
10.16	Decision Notice (20 th December 2017)
10.17	Cumbria CC Historic Environment Officer Scoping Opinion 04 th August 2016
10.18	SLDC Scoping Opinion 13 th September 2016
10.19	Historic England Consultation ES response 14 th August 2017
10.20	Cumbria CC Historic Environment Officer Consultation responses 16 th August 2017
10.21	SLDC Conservation Officer Consultation response 6 th September 2017
10.22	Letter from Pegasus Group to Mairi Lock, Lake District National Park Authority, dated 28 th September 2017, with enclosure 'Pegasus Group Heritage Assessment Addendum – The English Lake District World Heritage Site', September 2017
10.23	Letter from the Chairman of the High Furness Commoners Association in support of the application, dated 20 th November 2017
10.24	Consultation response from the Council's Environmental Protection Officer, 1 st November 2017
11. Appeal documents	
11.1	Appellant's Statement of Case
11.2	SLDC Statement of Case
11.3	Kirkby Moor Protectors (KMP) Statement of Case
12. Other KMP documents	
K12.01	KM Repowering NTS photo extracts
K12.02	KM IR 1991 and SoS decision 1992
K12.03	Whinash report (extracts)
K12.04	National Park Southern Boundary Extension (various)
K12.05	Valued landscapes
K12.06	Broughton Community Plan (extracts)
K12.07	NWEM 18 Dec 2018 Mountain Rescue
K12.08	Rhydcwmerau
K12.09	Planning 14 Dec 2018

Appendix Two

Section 5.3 of the Scottish Onshore Wind Policy Statement

Onshore Wind Policy Statement 2022



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Scottish companies early in procurement and open tendering processes and provide support to help them navigate forward.

- 5.2.7. We expect to see Scottish based suppliers being given a realistic opportunity to compete for manufacturing contracts. Developers, and those at the top of the supply chain, should work collaboratively to establish and develop manufacturing facilities and key infrastructure that can be utilised throughout the construction of multiple projects in Scotland.
- 5.2.8. The Scottish Government and its Enterprise Agencies will continue to work closely with the sector to identify and progress opportunities for inward investment in the domestic supply chain. This is particularly the case for our Small and Medium- sized Enterprises (SME) base. Our Enterprise Agencies currently put Net Zero and developing green jobs at the heart of their approach to business support and are available to provide product development support along with funding and grants.

5.3. Repowering

- 5.3.1. Not all onshore wind development needs to take place on new sites. As some of Scotland's first wind farms reach the end of their consented life, we can consider multiple options that either enable the use of modern, more efficient turbines or maintain the current turbines to ensure they continue to generate beyond their anticipated life.
- 5.3.2. Repowering, and extending the operational life of wind farms, can take different forms, and the coming years are likely to bring advances in engineering, technology and environmental practices that will increase the opportunities to repower at particular sites.
- 5.3.3. According to a survey conducted by RenewableUK, repowering has garnered significant support in Scotland, with 74% of people supporting the replacement of old turbines with new ones, once they reach the end of their lifespan. Additionally, 67% of people support installing modern, taller turbines in order to generate more power. The survey can be found [here](#).
- 5.3.4. Repowering to date has included new or upgraded components and technology being installed which can lengthen the operational life of a wind farm, while the layout and general scale of turbines remain unchanged. This is now known as life extension.
- 5.3.5. However, in their 2021 report, '[The Future of Onshore Wind Decommissioning in Scotland](#)', Zero Waste Scotland states that life

extension is a “finite activity that relies on the decommissioning and refurbishing of existing components”. The associated operations and maintenance costs required to keep existing turbines operational, and the availability of parts to service older turbines mean that we cannot rely on life extension to ensure our current fleet remains operational.

- 5.3.6. Other repowering options include dismantling existing turbines and installing new ones, potentially larger in scale, while re-using existing infrastructure (e.g., access roads, connection to a local electricity network). In these cases, the proposal is for a new wind farm, and can often extend the footprint of the existing wind farm into previously undeveloped areas.
- 5.3.7. Repowering using taller, more powerful turbines, requires significantly fewer turbines to generate more power. For example, SSE Renewables' Tangy Wind Farm will replace its existing 22 turbine, 18.7 MW generating site with only 16 turbines, generating up to 80 MW. According to RenewableUK's report [Onshore Wind: The UK's Next Generation](#), across the UK, 19 wind farm developments have been repowered, increasing generating capacity by 160% and using only two-thirds the number of turbines.
- 5.3.8. Other major advantages of repowering existing schemes include the opportunity for co-location with other renewables technologies, such as solar PV and battery storage, maximising land use through ecosystem enhancement and restoration (e.g., forestry/peatland), re-using existing infrastructure and increasing economic benefits to the local community.
- 5.3.9. Whilst our planning system is supportive of repowering, development proposals will continue to be considered on a case-by-case basis to ensure the ongoing suitability of the site for further wind farm development, taking account of relevant local and national planning policies.

5.4. Circular Economy

- 5.4.1. The Scottish Government is committed to building a circular economy and recognises it as a vital part of our journey to net zero. Increasing use of renewable technologies is resulting in a greater demand for the associated manufacturing materials.
- 5.4.2. Adopting a circular approach keeps materials in use for longer, safeguards against potential future resource shortages, and reduces the greenhouse gas emissions involved in manufacturing and transportation. It further avoids landfill costs for businesses and

Appendix Three

Ministry of Defence Letter dated 8th August 2023



**Defence
Infrastructure
Organisation**

Wendy Talbot
Ministry of Defence
Safeguarding Department
St George's House
DIO Headquarters
DMS Whittington
Lichfield
Staffordshire
WS14 9PY

Your Reference: AB/Yeorton

MoD Telephone: 07977410762

E-mail: dio-safeguarding-wind@mod.gov.uk

Our Reference: DIO18163

Andy Brand
Windlend (Cumbria) Limited
2 Bentink Street
LONDON
W1U 2FA

8 August 2023

Dear Andy

Please quote in any correspondence: DIO18163

Site Name: Yeorton Hall Wind Turbine Re-powering

Site Address: Land west of The Energy Coast Business Park, off A595, Haile, Egremont, CA22 2NH

Thank you for your pro-forma requesting pre-application advice from the Ministry of Defence (MOD) regarding your proposed wind energy development.

The Defence Infrastructure Organisation (DIO) Safeguarding Team represents the MOD as a consultee in UK planning and energy consenting systems to ensure that development does not compromise or degrade the operation of defence sites such as aerodromes, explosives storage sites, air weapon ranges, and technical sites or training resources such as the Military Low Flying System.

I am writing to inform you that the MOD may have concerns about the proposal.

The assessment has been carried out on the basis that there will be 1 turbine at 108 metres in height from ground level to blade tip and located at the grid references below:

Turbines	Easting	Northing
1	302310	508307

Low Flying

Fixed Wing military low flying training takes place throughout the United Kingdom down to a height of 250ft above ground level and in certain designated areas down to a height of 100ft above ground level. A turbine development of the height and at the location you propose may have an impact on low flying operations. A map has been produced which indicates areas in the UK where the MOD is more likely or less likely to object to wind turbine planning applications on the grounds of interference with low flying operations. The following link will take you to this map, which has been produced only for guidance and does not offer definitive advice on the MODs position

<http://webarchive.nationalarchives.gov.uk/20140802171818/https://restats.decc.gov.uk/cms/aviation-safeguarding-maps/>

Regardless of whether the MOD object to your proposal, it is probable the MOD will request the turbine be fitted with MOD accredited visible or infrared aviation safety lighting.

Meteorological Office Radar

The Met Office is now a statutory consultee for planning relating to their technical infrastructure, therefore the MOD has not informed the Met Office of this pre-application. If your development falls within any of the Met Office safeguarded zones you will need to contact the Met Office directly. More information is available on the Met Office website at:

<http://www.metoffice.gov.uk/learning/library/publications/safeguarding>

Please note that DIO staff will not be able to provide any information regarding the operational impact of your development over and above that which is contained in this letter.

Unless directed otherwise, the Ministry of Defence will treat all pre-application information in confidence and the information will only be used or disclosed in accordance with the wishes of the confider.

MOD Safeguarding wishes to be consulted and notified about the progress of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests.

I hope this adequately explains our position on the matter. Further information about the effects of wind turbines on MOD interests can be obtained from the following website:

MOD: <https://www.gov.uk/government/publications/wind-farms-ministry-of-defence-safeguarding>

Yours sincerely

Wendy Talbot
Assistant Safeguarding Manager
DIO Safeguarding