



Our Ref: A094018

28 August 2015

For the attention of Mr G Legg

Investment & Policy Manager

Carlisle City Council

Civic Centre

Carlisle

CA3 8QG

Dear Mr Legg,

Review of the Carlisle Local Plan Wind Policy in light of Inspector's Comments

As requested in your correspondence dated 6 August 2015, this statement provides WYG's review of the above local plan in regard to a recent change in national policy for wind energy developments. It sets out a statement in the format of an introduction to the issues, an analysis of options presented in a clear format with summarising conclusions and a final set of advice for actions and potential next steps.

Introduction

1. Carlisle City Council submitted their Local Plan for examination in accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012 to the Secretary of State on the 22nd June 2015. Subsequently, an Inspector from the Planning Inspectorate has been appointed to examine the soundness of the Carlisle District Local Plan ('the Plan'), and has raised a number of initial questions with regard to elements within the draft Local Plan and asked Carlisle City Council to provide responses and clarifications.
2. One of these questions relates to Policy CC2 - Energy from Wind and a recent Written Ministerial Statement (WMS) dated 18 June 2015 from the Secretary of State which sets out new considerations for planning policy to be applied to proposed wind energy developments. The WMS announced national policy change which has been revised in the Planning Practice Guidance (PPG) available online. The Inspector has raised a question as to whether Policy CC2 would be effective and consistent with national policy considerations in the light of these new WMS/PPG requirements.
3. Carlisle have provided an initial response to the Inspector dated 24 July 2015 (ref 026-PS002) that outlined that the evidence base that informed the Plan's renewable energy policies is based on jointly commissioned county wide (Cumbria) documents. This response also clarified that that following the



WMS, engagement across the County on these matters was ongoing and that Carlisle wished to reserve its final response until these were completed.

4. WYG's Planning team have been commissioned to provide a review of Wind Energy Policy and provide an assessment of the consistency with national policy and make recommendations to the potential options open to the Council. This will provide an independent interpretation of the implications of the WMS and a review of options from experts versed in the subject area.
5. The aim of this assessment is to present a series of open options to the Council to allow them to make specific conclusions for the Carlisle District Local Plan.

Carlisle Policy CC2 and the WMS:

6. Carlisle Policy CC2 is a criterion based policy dealing exclusively with energy from wind and sets a general presumption in support of this type of development where proposals do not have significant or adverse effects. There are six areas of advice within the policy covering issues ranging from amenity to heritage to civil or military aviation issues and technical environmental aspects such as flicker, low frequency sound or vibration issues. These stipulations are similar to, but more specific than those held in the policy and justification text for Policy CC1 - which again has an overarching principle of support for Renewable Energy extending to any technology, subject to its own tests. CC2 broadly provides greater policy material related to residential amenity, nature conservation and heritage assets.
7. Of relevance to this question raised by the Inspector, the WMS led new guidance within the PPG requires:
 - *"The development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and*
 - *Following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing."*
8. With regard to the first sentence, there is no further or specific guidance on identifying areas other than a statement in the WMS that mapping simple wind resource is not sufficient. It is unclear if local planning authorities (LPAs) will need to demonstrate site suitability assessment through general land use planning constraints or provide specific allocations based on a more technical assessment. However, it is notable that allocating 'areas of search' for wind energy development is an already an established planning practise in Scotland and therefore, there are clear examples of potential work required including in Dumfries and Galloway Council.
9. With regard to the effects to local communities and securing their backing, the Planning Practice Guidance (PPG) states the importance of local 'say' on wind farm applications. This is to be determined



by the LPA in their own judgement and again, there is no guidance within the PPG to define acceptable quantification of 'backing'.

10. Considering these changes to national policy and guidance raised by the WMS, the Inspector for the Local Plan examination noted that CC2 aims to deal with applications coming forward with a set environmental criterion tests. However the Inspector also recognised it does not set out or is supported by a listing of allocated sites to be preferentially brought forward for wind turbine location nor does it set out standards for quantifying or ensuring the backing from local residents. It is on this basis the Inspector raised the question of CC2's effectiveness and consistency with National Policy as modifications may be necessary to address this.

Options available to Carlisle City Council:

11. Therefore, in response to the issues outlined above WYG consider that Carlisle Council have a series of options to consider in response to the Inspector and to the new national policy. These are not necessarily exclusive and may be selected in combination:

- a) Do nothing, e.g. retain policies CC1 and CC2 as written.
- b) Revoke CC2 and retain CC1.
- c) Retain or adapt both policies to provide additional guidance on sites and an acceptable measure of public backing.

Option a), Do nothing, e.g. retain policies CC1 and CC2 as written.

Consideration of impacts:

12. Retaining policies CC1 and CC2 in their current format would keep the specific guidance on distance to residential limits and provide a clear set of named criteria types that proposals must demonstrate compliance with. This would maintain the stated "positive criteria based approach to encourage acceptable proposals to come forward to help meet national renewable energy targets" held with the Plan's policy justification, albeit without significant detail.

13. Policy CC1 sets out a presumption in supporting renewable energy development if proposals meet five criteria to ensure no adverse effects occur. This includes, amongst others: visual impact, landscape, townscape and historic settings and importance, environmental impacts and to not have unacceptable impacts on services, infrastructure and aviation and or defence installations.

14. Policy CC2 takes a similar approach with specific reference to Energy from Wind, again with criteria required. It is noted that the guidance that supports policy CC2 (paragraph 7.14) acknowledges and states proposals should take account of guidance held within the following documents used as part of



the evidence base for the Carlisle Local Plan: the Cumbria Wind Energy - Supplementary Planning Document (SPD); Cumbria Renewable Energy Capacity and Deployment Study (2011) and the Cumbria Landscape Character Guidance and Toolkit (2011). These documents, in particular the SPD, provide extensive guidance on the six topics held within policy CC2.

15. Therefore, there is arguably a repetition of some content in CC1 and the SPD that forms much of the criteria based content of CC2. Additionally in its current format, its inclusion in the Plan renders the current policy inconsistent with national guidance and thus it may be better removed to allow for a reliance on national policy only. As the Inspector pointed out, there is a potential for all site proposals to be deemed unsuitable regardless of meeting the Plan's policy tests, as they all will not satisfy the requirements of allocation through a local plan as stated in the WMS and in PPG.
16. The three documents cited by Carlisle City Council in their initial response to the Inspector (paragraph 14, above) do not hold site specific information. Equally, the recent Cumbria Cumulative Impact of Vertical Infrastructure Study (October 2014) whilst demonstrating Cumbria wide constraints using GIS data, does not (as yet) take this information further to identify suitable areas at either a county or local authority level.
17. Turning to the second point to emerge from the recent WMS, e.g. "*Following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing*", there is some relevant guidance and text in the Cumbria evidence base documents (paragraph 14, above). This text is reasonably extensive and it could be argued that this provision is made by that guidance for the Cumbria region. In particular there is extensive comment and guidance in the Cumbria Wind Energy SPD in sections G3 and G4 which also advise developers to consider the 'Protocol for Public Engagement with Proposed Wind Energy Developments in England' (DTI and Renewables Advisory Board, October 2006). However, this document is almost a decade old and has policy references that are now out of date whilst none of these documents or references provide a measure to demonstrate suitable agreement or 'backing'; in short, the *interpretation* of consultation is not given.

Conclusion:

18. In summary, the do nothing scenario is extremely unlikely to be accepted in the light of either the new government guidance in paragraph 014 of the PPG, the recent WMS or the Inspector's questions as described above. The change in approach from national level now demands that wind specific policy is supported by a demonstration of areas identified as suitable for wind energy development in a Local or Neighbourhood Plan. This would need to be addressed by Carlisle City Council in order for the policy to be found 'sound'. It is possible that the previous work used for the Cumbria Cumulative Impact of Vertical Infrastructure Study could lead this for a more detailed analysis, and arguably there is some



guidance for Cumbria and thus Carlisle for the requirements of adequate public consultation, but this if unaltered, will fail to meet the needs of the new WMS/PPG requirements.

19. Given this conclusion the Inspector is likely to request changes during the examination process as it could be argued that the policy is not consistent with national policy or effective.

Option b), Revoke CC2 and retain CC1.

Consideration of impacts:

20. The second alternative would be to revoke CC2 and retain and adapt CC1 (to remove wind references). Considering the comments outlined above, this is potentially feasible and Carlisle City Council could rely on the documents in the evidence base for matters on consultation and make their own judgement on the interpretation of 'backing'.
21. It should be noted however, if CC2 were to be removed, an immediate consequence would be that Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA) may be required for this change, whilst in the future, were national guidance to alter again in any way, this may leave a vacuum for criteria based tests in Carlisle planning policy.
22. On a more detailed and practical level, Carlisle City Council have questioned whether a differentiation between commercial and larger turbines and those more micro in scale which do not entail the same impacts would assist in the delivery of sustainable development. Currently, and with regard to the two issues raised by the Inspector, the justification text for CC2 does already helpfully state that "*it will be expected to provide supporting evidence proportionate to their scale and nature and the key issues they give rise to*" whilst the text for CC1 makes it clear that community involvement is only required for larger scale projects (although there is no definition of scale). We consider that the issues remain irrespective of scale. In our experience, some other local authorities have extensive policy, e.g. stand alone SPDs on wind turbines, particularly for places where their presence is more in demand or the landscape particularly sensitive - Cornwall being an example. These SPDs are therefore able to provide greater detail to support the Local Plan policies including differentiating between likely impacts between commercial or micro generation units, especially as smaller does not necessarily mean less impact (for example turbine speed is an important factor in visual impact with smaller units). In the absence of any such supplementary planning guidance, the justification text quote above with respect of CC1 would need to be removed and that from CC2 retained as part of it instead.

Conclusion:

23. There is therefore some doubt as to whether the deletion of CC2 would benefit Carlisle City Council in its decision making whilst it may require potential additional work in the form of SA and HRA and re-



writing of the justification text. Additionally, whilst even in the interim, in the absence of the provision of further guidance, it would also leave a vacuum in policy control for any type of wind energy projects other than the general text in CC1.

24. Furthermore, this option would still not address the new guidance on acceptability of public 'backing' and would result in a policy gap with regard to wind development in Carlisle. Thus policy would not support any wind related developments at all, including small-scale or community schemes.
25. WYG have not reviewed proceeding consultation responses from stakeholder, member and the local community, therefore we are unable to judge the extent to which deletion of the policy would trigger a major objection. However, as with all changes to the Local Plan the changes would have to be subject to the statutory consultation process as well which may lead to objections raised for lack of compliance with the new national guidance as well as a perceived diminishment of planning control on wind farm developments.

Option c), Retain or adapt both policies and provide additional guidance on sites

Consideration of impacts:

26. The retention of both policies option may be potentially the simplest way forward and with additional guidance referenced to and then published in the near future, which could ensure that the Local Plan adoption is not stalled in any significant way. The justification text can (relatively) simply be adapted to include reference to a future allocation document that identifies suitable sites and states suitable tests to determine the assessment of local backing. The reference could be made to a subsequent wind energy development plan document and/or neighbourhood plans. In this way policy could be considered to be effective as delivery of development could occur (whether through an allocation document or neighbourhood plan). Paragraph 193 of the NPPF theoretically opens the door to supplementing the current policies CC1 and CC2 as that paragraph states LPAs should "*publish a list of their information requirements for applications*" and that such information can be "*reviewed on a frequent basis*".
27. It should be noted the aforementioned demands of the WMS / PPG are in fact, already expressed in the NPPF where it provides some guidance for renewable energy policy and encourages local planning authorities in this regard stating they should "*consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure*". It includes a specific footnote identifying suitable approaches set out in the National Policy Statement for Renewable Energy Infrastructure as well as requiring LPAs to "*make clear what criteria have determined their selection, including for what size of development the areas are considered suitable.*" Therefore, to be tested as sound in this one regard, the Carlisle Plan should make provision or at least reference to this provision being met.



28. As described above, there is already an extensive body of work in the Cumulative Impacts of Vertical Infrastructure document that could be the basis for this. With its GIS database, the data could be used as the basis to develop clearly identified constraints that would enable site selection or sieving of site suitability in a 'call for sites' exercise. Using this process would be relatively easy to create a simple listing of potential areas that would be subject to further planning and environmental analysis if they came forward with proposals, but would be determined on a more robust assessment than that warned against in the WMS.
29. WYG also consider that were an additional policy document to hold guidance such as requirements for energy output to be considered in future proposals, this would enable overall sound decision making on applications. In fact, the PPG notes in paragraph 021 (revision date 6 March 2014) that measuring likely energy output, "*can be useful information in considering the energy contribution to be made by a proposal, particularly when a decision is finely balanced*". This information is already available within the Carlisle Evidence Base, however, this exercise could update and/or refine the capacity.
30. Through creating a suite of such guidance for Carlisle, the Local Plan documents would therefore provide a clear set of previously assessed and deemed potentially suitable locations and then provide individual environmental tests through planning applications plus, a means to compare *each other* thus allowing for robust and clearly justified decision making for any wind energy development.
31. With regard to the requirement for demonstrating backing from the local community, the PPG clearly states "*Following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing*", meaning that communities can identify the impacts and that having been fully addressed, it is expected they will back the scheme. In our view it is hard to envisage a scenario where every representative of a community will be satisfied with the mitigation, either because of a complete objection in principle to the wind farm proposal clouding discussion on the mitigation merits or, that mitigation offered is simply not agreed as acceptable.
32. The PPG places the responsibility of this decision with the words "*Whether the proposal has the backing of the affected local community is a planning judgement for the local planning authority*". Similar to our observation in paragraph 31 above, initial legal observations have noted that this could be interpreted as a mandate for refusal.
33. In considering our advice, we have looked to see if there is other, applicable guidance, e.g. the Nationally Significant Infrastructure Project (NSIP) regime which has as a precursor to validation, an opportunity for a local planning authority to report on the adequacy of the pre-application consultation



process. However, even this type of consultation adequacy assessment is strictly guided away from testing actual response / backing stating in the Planning Inspectorate Advice note 14, Compiling the consultation report (2012): *"the adequacy statement is not the place to debate the merits of the scheme"*.

34. Therefore, in the absence of any specific or even indirect guidance, the policy is silent and it therefore remains that local planning authorities will need to make their own judgement on whether objections to the scheme have substance as directed by the PPG e.g. they have genuine environmental or land use basis rather than opinion on the UK's energy solutions.
35. If objections remain, the current guidance does mean that it will be harder to determine 'on balance' decisions meaning the decisions on wind farm developments may be initially refused and then inevitably end up taking local planning authorities through the appeals process. Clearly this could have future cost implications as LPAs follow the government guidance but unavoidably place themselves and the developer in this position.
36. An important point to note is that this guidance has not had the benefit of a consultation process; given that it is likely to be an unpalatable change for both wind farm developers and ultimately some LPAs who can see cost and development implications, there could be a period where challenge is anticipated from at least developers.
37. Our current advice therefore would be that any LPAs should wait a reasonable time for this to occur and for Carlisle, the CC1 or CC2 justification text could refer to the environmental or land use relevance test in paragraph 34 above, which for the purposes of the local plan and inspectors questions would be reasonable.

Conclusion:

38. It is clear that the most important response to the WMS and the Inspector's questions is regarding the identification of suitable sites as this is both currently missing from the Local Plan and brings into question the ability for policy CC2 to be found 'sound'. By undertaking an exercise to satisfy the WMS and related policy in the PPG, a Development / Neighbourhood Plan Document built on the existing Cumbria evidence would meet this requirement in the WMS / PPG (and established in the NPPF) and may allow for policy CC2 to be retained with minor justification text additions enabling the simplest change to the Plan currently before the inspector, although this is no guarantee potential SA/HRA work would not be required.



39. The retention of both policies could also allow for a future proofing of Carlisle planning policy with specific regard to wind energy developments irrespective of how national guidance may adapt again. The current evidence base in Cumbria could provide the basis for adequate guidance for ensuring consultation with the public.
40. Additionally, it would also allow the retention of a 'locally distinctive' policy on wind which may be an important factor to consider given the Local Plan consultation to date.

Summary

41. In this review, WYG have set out our understanding of the national policy context that has given rise to the Inspector's questions when assessing the soundness of Carlisle's Local Plan. From that context, we have looked at the current policies CC1 and CC2 as they stand and their supporting justification text.
42. Our view is that Carlisle can consider a series of options that are not discrete, e.g. there is no one definite solution but rather a series of options that can be selected dependant on resources, timing and preference.
43. In forming an approach the Council should consider past representations from stakeholder, members and community related to wind development, in addition to considering the future direction of policy for wind development, including small-scale and community schemes. Also a key consideration is the resource implications of, and political 'will' to allocate sites for wind development.
44. These options however only go as far as selecting the best way forward to respond in time to the inspector's questions; ultimately the current national guidance for local planning authorities to demonstrate suitable areas for this type of development currently remains an additional requirement to be addressed in their local plans as is the case here for Carlisle.
45. All practical scenarios (ignoring the do-nothing approach) would require some adaptation of the current text:
- Option b - Removal of references to wind energy development and relying on national guidance only.
 - Option c - Changing the policies and or justification notes at minimum, demonstrating where current evidence documents provide *some* guidance on assessing public consultation on renewable energy developments and to signpost the future delivery mechanism for defining areas suitable for wind energy development.



Review of the Carlisle Local Plan Wind Policy

46. All the above may still require potential SA/HRA work, in addition to statutory public consultation. The time table for making these changes is also an important consideration and will be dependent on the level changes expected as a result of the examination process, e.g. if the examination leads to further policy revisions, all changes can be made at one time and consulted upon accordingly. It should be noted that in the interim, until final adoption, this discrepancy between its text and this new national guidance will leave open an opportunity to challenge the Plan's soundness.
47. This summary has been based on our understanding of planning policy development and especially our experience in renewable energy practice and guidance. We believe that the options above represent a series of choices that can be made on both cost effective requirements as well as the need to comply with national policy and yet retain an element of bespoke planning control that Carlisle desires.
48. If you would like to discuss this further, please do not hesitate to contact us.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'John Leggett', with a long horizontal stroke extending to the right.

John Leggett MRTPI AIEMA
Associate Planner
for **WYG ENVIRONMENT**