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c/o Yvonne Parker
Programme Officer
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Date: Friday 24th July 2015
Our ref:
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Dear Inspector,

Pendle Core Strategy Examination – Wind Energy Development (HCWS42)

Thank you for your letter of 10th July 2015, highlighting the written ministerial statement (WMS) issued by Greg Clark, the Secretary of State for Communities & Local Government, on 18th June 2015. The content of the WMS has been noted and its implications for the Pendle Core Strategy duly considered.

Pendle Council ["The Council"] is in agreement with the Inspector that there are three possible options to ensure that Policy ENV3 accords with the WMS on wind energy development. Whilst recognising that it is for the Inspector to decide on the wording of any modifications considered necessary to ensure soundness, the Council would like to put forward the following comments in response to the request from the Inspector.

Option 1: Delete policy ENV3 – The Council considers that the removal of Policy ENV3 from the Core Strategy would mean that it no longer represents "a positive strategy to promote energy from renewable and low carbon sources" as required by the National Planning Policy Framework (NPPF) (Paragraph 97, Bullet Point 1). As such removing it may lead to the Core Strategy being found unsound.

Option 2: Add the tests from the written ministerial statement into Policy ENV3 – It is evident that the Government intends the tests within the WMS to be regarded as national policy and to carry very significant weight in the planning process. However, the Council remains to be convinced that a WMS can assume the status of national planning policy, having not gone through the necessary statutory processes such as sustainability appraisal and public consultation. Case law suggests that WMS do not carry the weight of national planning policy and our view is that it cannot be given that weight. As such the Council is concerned that if the tests from the WMS were to be incorporated into Policy ENV3, there would be a risk of judicial challenge to the Pendle Core Strategy in that it would not be based on the NPPF, which is the only formal planning policy of the Government.

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If the WMS is to have the status of national planning policy there is no need to include its requirements within the Core Strategy, as this would merely replicate national planning policy. Should the Inspector chose to recommend Option 2, the Council considers that the modification would not require further public consultation, as stakeholder comments could not alter the national planning policy stance.

Option 3: Amend Policy ENV3 to make it clear that it does not relate to wind energy development – The Council considers that changes to both the policy and justification text, highlighting that Policy ENV3 does not relate to wind energy development – and making it clear that a policy addressing wind energy and the identification of suitable sites for such development is intended to follow in Pendle Local Plan (Part 2) – will allow the Council to retain a policy, which provides a positive strategy to promote the generation of energy from renewable and low carbon sources and avoid the need to repeat the WMS. In such circumstances, the determination of any applications for wind energy would rely on the NPPF, the WMS and national planning practice guidance.

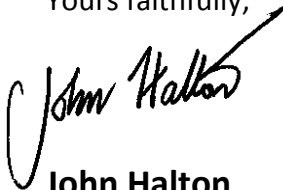
Whilst the need for further SA work is not considered to be necessary, as the policy still promotes the introduction of renewable and low carbon technologies, there is a change to the local policy stance. As such a public consultation to allow interested parties to consider the proposed changes is considered to be appropriate. In-line with the Council's existing requirements on public consultation, as set out in the Statement of Community Involvement (March 2007), it is considered that such a consultation, even though it will only consider proposed changes to Policy ENV3, should take place over a period of six-weeks.

The Council's preferred approach is that outlined under Option 3. In the Council's opinion the proposed changes to the policy and justification text (see attachment), will ensure that the Pendle Core Strategy can continue to be both effective and consistent with actual national policy.

I trust that the comments above provide a clear indication of the Council's position with regard to the implications of the WMS for the Pendle Core Strategy. However, should you require any further clarification or information, please do not hesitate to contact me.

I look forward to receiving further direction from you in due course, on how best to proceed with the Examination of the Pendle Core Strategy.

Yours faithfully,



John Halton

Principal Planning Officer (Policy)

