

Pendle Local Plan Part 1: Core Strategy – Examination

Main Modifications: MM095-MM098: Policy ENV3 – Renewable and Low Carbon Energy – Consultation Comments

Comment ID	Representor ID	Organisation / Representor	Modification Number	Paragraph/ Policy	Comments	Officer / Council Response
Policy ENV3 – Renewable and Low Carbon Energy						
MC129	907643	Highways England Mr Warren Hilton	-	-	<p>Thank you for consulting Highways England on the proposed Main Modifications to Policy ENV3 of the Pendle Core Strategy.</p> <p>Having considered the modifications, there are no comments that Highways England need to make.</p>	No comment.
MC130	327813	Mr David Penney	-	-	<p>Thank you for notice of modifications to Core Strategy Development Plan Document. It useless responding to the Consultation as the Government is imposing these modifications re On Shore Wind Farms whatever we say.</p>	No comment.
MC131	674995	Network Rail Ms Diane Clarke	-	-	<p>Network Rail has no comments.</p>	No comment.
MC132	711527	Office of Rail and Road Ms Anneli Harrison	-	-	<p>Thank you for your request for our representations on the soundness and legal compliance of the proposed Main Modifications (MM095–MM098) to Policy ENV3 of The Pendle Core Strategy.</p> <p>We have reviewed your proposals and can confirm that the ORR has no comment to make.</p>	No comment.
MC133	379222	The Coal Authority Miss Rachael Bust	-	-	<p>Thank you for consulting The Coal Authority on the above document.</p> <p>Having reviewed the document, I confirm that we have no specific comments to make at this stage.</p>	No comment.
MC134	327467	Barrowford Parish Council Mr Iain Lord	MM095-MM098	8.83, 8.86, 8.90, Policy ENV3	<p>At last night's Council meeting the Parish Council discussed the proposed modifications to the Core Strategy in light of recent Parliamentary statements. The Parish Council feels that both the rewording of MM095/8.83 and the deletion of paragraph MM096/8.86 and the additions to both MM097//8.90 and MM098/ENV3 will make the future construction of wind turbines within Pendle virtually impossible in the foreseeable future.</p> <p>How will these changes affect the targets set to reduce both Carbon and Greenhouse Gas Emissions by 2020 which Pendle Borough Council signed up to? If the proposed amendments to the Core Strategy are included then surely the other forms of green energy/carbon reduction/ thermal efficiency should be beefed up to compensate for the possible loss of wind turbine applications in an area where</p>	Policy ENV3 aims to encourage renewable and low carbon energy developments and the use of such technologies within new developments. The generation figures in Policy ENV3 are not fixed targets but a positive generation aim. The figures are derived from the South Pennines Renewable and Low Carbon Energy Study and represent the amount of energy that would need to be generated in Pendle to meet the aspirations of the UK's Renewable Energy Strategy.

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					<p>potentially good generation sites exist.</p> <p>The Parish Council feels that Borough Council should be taking the lead in tackling the challenges of meeting their commitment to the 2020 emissions targets through the Core Strategy and where permissible making it mandatory for future developments to either incorporate green technologies or partially fund through infrastructure levies such local schemes as deep ground source heat recovery which would benefit either the development or the local community whilst helping to meet the emissions targets within Pendle.</p>	<p>The National Planning Policy Framework (paragraph 173) indicates that careful attention should be paid to viability and that developments should not be subject to a scale of obligations or policy burdens which threaten their viability. The current viability evidence indicates that the inclusion of mandatory requirements for renewable and low carbon energy within developments is likely to have an adverse effect on viability and therefore such requirements cannot be imposed at this time.</p> <p>Policy ENV2 also encourages developments to be designed in a manner which maximises energy efficiency and the use of renewable energy technologies where appropriate.</p> <p>Proposed changes to the Building Regulations will look to introduce minimum energy efficiency standards.</p> <p>The government's recent changes to the way housing standards can be included in Local Plans limits the requirements that can be introduced. Further consideration will be given to such standards in the Local Plan Part 2.</p>
MC135	731431	Historic England Ms Emily Hrycan	-	-	Thank you for consulting Historic England on the above. We have no comments to make on the proposed modifications.	No comment.
MC136	692633	Lancashire CPRE Ms Jackie Copley	-	-	<p>The Lancashire Branch of the Campaign to Protect Rural England is writing concerning the Development Plan Document Core Strategy Main Modifications (Policy ENV3) MM095-MM098.</p> <p>CPRE campaigns on behalf of its members to protect and enhance a beautiful and living the countryside as new development comes forward. We are supportive of an increase in renewable energy</p>	Support for the modification noted.

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					<p>projects, but firmly believe they ought to be located in appropriate receiving environments, with the support of local communities who are impacted by them.</p> <p>Therefore we are pleased to learn that Pendle Borough Council has rewritten Policy ENV3 so that it is consistent with national planning policy. The Written Ministerial Statement of Greg Clark, the Secretary of State for Communities & Local Government, published in June, announced changes to the Government's Planning Practice Guidance for onshore wind turbine development.</p> <p>We believe it is right that local communities have a say in what happens locally. Where located inappropriately the adverse landscape, visual and residential amenity harm to our most loved rural places is great. The new wording of Policy ENV3 makes it sound for the purpose of the Examination.</p>	
MC137	327370	National Trust Mr Alan Hubbard	MM095		<p>Thank you for notifying National Trust of the further consultation on proposed Modifications to the Pendle Core Strategy DPD.</p> <p>The Trust would comments as follows:</p> <p>MM095 – Proposed modification noted, no specific comments.</p>	No comment.
MC138	327370	National Trust Mr Alan Hubbard	MM096		<p>MM096 – Proposed modification noted, no specific comments.</p>	No comment.
MC139	327370	National Trust Mr Alan Hubbard	MM097		<p>MM097 – It is suggested that the proposed wording might beneficially be amended to read “<i>For wind energy development it will be necessary to define suitable areas which have the community support of those local communities affected.</i>”. At present the ‘local’ element in the Ministerial Statement is missing from the proposed Modification.</p>	<p>The Council does not support the suggested change made by the National Trust. However, the modification as currently written is not considered to reflect the guidance contained in the Ministerial Statement. As such the Council suggests that Main Modification MM097 is amended to read:</p> <p><i>“For wind energy development it will be necessary Future Local and Neighbourhood Plans will consider the need to define suitable areas which have community support for wind energy development.”</i></p>

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MC140	327370	National Trust Mr Alan Hubbard	MM098		<p>MM098 –</p> <p>a) It is noted that several of the Modifications included in MM098 have already been consulted upon as part of the June 2015 consultation on Main Modifications. National Trust confirmed that it was content with those proposed modifications and is a little concerned that in practice those matters have been re-opened for further consideration at this stage. The Trust would be especially concerned if further changes were made to those Modifications (other than in relation to wind energy developments) as part of the review of responses to the current consultation; i.e. those Modifications should already be settled as they are not impacted upon by the Ministerial Statement from June.</p> <p>b) National Trust is not convinced that the only Policy text relating to wind energy developments can be limited to simply saying: <i>“Applications for the installation of wind turbines will be assessed against national planning policy”</i>, especially in the absence of defined suitable areas for wind energy development in Pendle. The Modification is ostensibly intended to address the matters raised in the Ministerial Statement in June; however, as the Ministerial Statement does not form part of the National Planning Policy Framework it does not form part of the proposed Policy wording.</p> <p>More particularly the clear intention of the Modifications consulted upon in June was that wind energy developments in Pendle would be assessed against the criteria set out in the five bullet points consulted on at that time. Nothing in the Ministerial Statement says that Local Planning Authorities cannot have criteria against which wind energy applications will be assessed and the likelihood is that at Development Plan level broad areas for wind energy development will be identified and that there will still be a need to consider specific local factors, e.g. the impacts upon heritage assets, as part of the assessment of individual proposals. The fact that at present there are no defined suitable areas for wind energy development in Pendle adds strength to the case for retaining relevant assessment criteria in DPD Policy.</p> <p>It is suggested that:</p> <ol style="list-style-type: none"> The proposed new sentence <i>“Applications for the installation of wind turbines will be assessed against national planning policy”</i> is deleted. That the next sentence is amended to read <i>“For all Renewable</i> 	<p>a) In order to give context to the additional proposed changes to Policy ENV3 it was considered appropriate to set out the whole of the policy text in Main Modification MM098. It is acknowledged that this effectively allowed consultees to comment on those changes that had already been proposed. However, the Council will take this into consideration when reviewing and responding to the consultation comments that have been made.</p> <p>b) The Council agrees that the Ministerial Statement does not form part of the NPPF. It is suggested that an additional amendment is made to Policy ENV3 to give a clearer indication of how applications for wind turbines will be dealt with by the authority. The third paragraph should be amended to read:</p> <p>“The Council will support proposals for all RLC technologies where the proposal is that are of an appropriate scale for its their setting, and where the development will not:</p> <ul style="list-style-type: none"> have an unacceptable level of impact on the landscape and visual character of an area, either on its own or cumulatively, or result in an unacceptable impact on the value of any ecological or heritage assets, or to residential amenity. <u>Meets the relevant national policy and guidance tests²; and</u>

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					<p><i>and Low Carbon technologies other than wind, the Council will support proposals..."</i></p> <p>iii. That a new section is added at the end of the Policy relating to wind energy developments, worded as follows: <i>"Wind energy developments will also be assessed as set out above for other Renewable and Low Carbon technologies but in particular will be evaluated against national planning policy and guidance and with particular regard to the Written Ministerial Statement (HCWS42) dated 18th June 2015."</i> Adding a footnote with a link to the Statement would be useful.</p> <p>c) It appears to the Trust that something has gone awry with the editing of the following modified text:</p> <p><i>"...For all other Renewable and Low Carbon technologies, the The Council will support proposals for all RLC technologies where the proposal is that are of an appropriate scale for its their setting, and where the development will not result in an unacceptable impact on:</i></p> <ul style="list-style-type: none"> <i>• have an unacceptable level of impact on the landscape and visual character of an area, either on its own or cumulatively, or</i> <i>• result in an unacceptable impact on the value of any ecological or heritage assets, or to residential amenity."</i> <p>It is considered that the text highlighted above is both wrong and superfluous, it should be deleted as it is replaced by the five new bullet points consulted on in June.</p>	<ul style="list-style-type: none"> Does not have an unacceptable impact on: <ul style="list-style-type: none"> A recognised designation (Policy ENV1); The landscape and visual character of an area, either on its own or cumulatively; Ecological, biodiversity or geodiversity assets; Heritage assets and their settings (including archaeological remains); Residential amenity. <p>Footnote: ² Specific guidance on how wind turbine applications should be considered is contained in the NPPG."</p> <p>c) It is acknowledged that when Main Modification MM098 was published on the 7th August 2015 the two bullet points were not denoted as strikethrough text as they had been in Main Modification MM063. However, the Council was informed of this early on the first day of the consultation and the Schedule of Modifications (MM095-MM098) was immediately replaced with the correct modification. For clarification the highlighted text is proposed to be deleted and the new bullet points are proposed to be included in Policy ENV3.</p>

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MC141	327370	National Trust Mr Alan Hubbard			<p>The composite result of the suggestions set out above in response to MM098 is that the Policy would read as follows:</p> <div style="background-color: #e0ffe0; padding: 10px; border: 1px solid black;"> <p>Policy ENV 3 Renewable and Low Carbon Energy Generation</p> <p>The Council will encourage new developments that are appropriate to their setting and make a positive contribution towards increasing levels of renewable and low carbon energy (RLC) generation in Pendle.</p> <p>By supporting a mix of appropriate schemes the Council will aim to achieve the following generation figures by 2020:</p> <ul style="list-style-type: none"> • 15.4 MW of electricity • 11.8 MW of heat⁽¹⁾ <p>For all Renewable and Low Carbon technologies other than wind, the Council will support proposals that are of an appropriate scale for their setting, and where the development will not result in an unacceptable impact on:</p> <ul style="list-style-type: none"> • A recognised designation (Policy ENV1); • The landscape and visual character of an area, either on its own or cumulatively; • Ecological, biodiversity or geodiversity assets; • Heritage assets and their settings (including archaeological remains); • Residential amenity. <p>All proposals must be accompanied by appropriate supporting evidence which can include landscape, visual, noise and environmental assessments. Applicants must demonstrate that satisfactory mitigation measures can be employed to offset any potentially negative impacts that are identified, or that the positive benefits of the scheme outweigh these impacts.</p> <p>Wind energy developments will also be assessed as set out above for other Renewable and Low Carbon technologies but in particular will be evaluated against national planning policy and guidance and with particular regard to the Written Ministerial Statement (HCWS42) dated 18th June 2015⁽²⁾.</p> </div>	See response to comment MC140.

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					<p>Footnotes:</p> <p>1 These are not fixed 'targets' but a positive generation aim. There are no minimum or ceiling figures set for individual or collective technologies.</p> <p>2 See http://www.parliament.uk/documents/commons-vote-office/June%202015/18%20June/1-DCLG-Planning.pdf</p>	
MC142	928389	Energiekontor Uk Ltd Mr Will Martin			<p>We write in respect of the above consultation and firstly would like to thank the Council for the opportunity to comment on the proposed policy modifications in light of the Written Ministerial Statement (WMS) on the 18 June 2015.</p> <p>Energiekontor UK is a renewables developer based in Leeds and Glasgow, we have 95 MW of clean green renewable energy either operational, under construction or consented in the UK.</p> <p>In relation to the content of the amendment, we would raise a concern, regarding the authority of the WMS which was highlighted in your own response and by a recent court case. In response to the letter from the Inspector regarding the possible changes you stated the following (24 July 2015):</p> <p><i>'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.'</i></p> <p>This view has been further established by the recent judgement <i>R on the Application of West Berkshire District Council v Department for Communities and Local Government</i>¹ who found that the introduction of a policy requirement through a WMS was not lawful and also that the consultation on the matter was unfair: both principles of the case which apply to this WMS. Appreciating both these factors we would question the Council's rationale for making significant modification to this well drafted and consulted upon a policy which was considered sound and in accordance with national policy prior to the WMS.</p> <p>We consider therefore that the first three paragraphs of policy ENV5 (typo ENV3) should revert to how they were drafted prior to the WMS.</p> <p>Should it be determined that the proposed changes to the Local Plan</p>	<p>The Council reasserts its position regarding the status of written ministerial statements.</p> <p>The Council agrees that Main Modification MM097 (paragraph 8.90) needs to be amended to reflect the wording of the Ministerial Statement and should therefore read:</p> <p>"For wind energy development it will be necessary Future Local and Neighbourhood Plans will consider the need to define suitable areas which have community support for wind energy development."</p> <p>Main Modification MM098 should also be revised to take account of the changing position with regards to ministerial statements and the responses received to the public consultation to Policy ENV3 (Main Modifications MM095-MM098). As such it is suggested that the third paragraph of Policy ENV3 is reworded to read:</p> <p>"The Council will support proposals for all RLC technologies where the proposal is that are of an appropriate scale for its their setting, and where the development will not:</p> <ul style="list-style-type: none"> • have an unacceptable level of impact on the landscape and visual character of an area, either on its own or

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					<p>are required because of the changes made to the National Planning Policy Guidance and the ministerial statement, although national policy has not changed, we would make the following representations in respect of the wording.</p> <p>The WMS states that '<i>local planning authorities should only grant planning permission if</i>' then there are two criteria that follows one in relation to areas being identified and the other being in relation to '<i>following consultation. it can be demonstrated</i>'...' impacts have been addressed and therefore the proposal has their backing. We highlight that as the current wording within your text / justification implies that the <u>allocations</u> are required to have community support, this is clearly not the requirement within the WMS, as it clearly refers to an application / proposal needing to demonstrate this.</p> <p>It would not be practical for the local authority to undertake sufficient scenario modelling for potential development options for areas allocated within the plan to judge whether there was community support for each potential scenario, this is only something which can properly be assessed as part of an application process.</p> <p>We consider therefore that the end of Para 8.90 should be changed to as follows:</p> <p><i>'For wind energy development it will be necessary to define suitable areas.'</i></p> <p>Furthermore, we believe the policy should make clear that until such time as suitable areas have been identified in a Development Plan Document, paragraph 14 of the NPPF and other material considerations will apply to planning applications.</p> <p>¹Citation Number: [2015] EWHC 2222</p>	<p>cumulatively, or</p> <ul style="list-style-type: none"> • result in an unacceptable impact on the value of any ecological or heritage assets, or to residential amenity. • <u>Meets the relevant national policy and guidance tests²; and</u> • <u>Does not have an unacceptable impact on:</u> <ul style="list-style-type: none"> • <u>A recognised designation (Policy ENV1);</u> • <u>The landscape and visual character of an area, either on its own or cumulatively;</u> • <u>Ecological, biodiversity or geodiversity assets;</u> • <u>Heritage assets and their settings (including archaeological remains);</u> • <u>Residential amenity.</u> <p>Footnote: ²<u>Specific guidance on how wind turbine applications should be considered is contained in the NPPG."</u></p>