

Fylde Council Local Plan to 2032

FYLDE BOROUGH COUNCIL STATEMENT

MATTER 8

THE ENVIRONMENT

Stage 2 Hearing Sessions

June 2017



Contents

Matter 8	The Environment	Page
<p><i>Issue – Does the Plan set out a positively prepared strategy for the preservation and enhancement of the environment (natural, built and historic); the management of water and flood risk; and the promotion of renewable and low carbon energy generation within Fylde that is justified, effective and consistent with national policy?</i></p>		
<p><u>Policies ENV1 – ENV2 – Landscape and Biodiversity</u></p>		
62.	Are policies ENV1 and ENV2 consistent with paragraphs 113 and 114 of the Framework?	6
63.	Paragraph 14.6 states that the Council intends to prepare a valued Landscapes SPD to accompany Policy ENV1. Have valued landscape areas already been defined? If so are they justified and based on robust evidence. Should they be set out in policy rather than an SPD?	7
<p><u>Policy ENV3 – Existing Open Space</u></p>		
64.	It has been suggested that Policy ENV3 should also refer to the protection of open space in the countryside. Is this justified?	7
65.	Is the purpose of ENV3a and ENV3e the same? Can the Council clarify what ENV3b is trying to achieve as it is not entirely clear?	8
66.	Is the policy justified and consistent with national policy?	9
<p><u>Policy ENV4 – New Open Space</u></p>		
67.	The policy includes minimum standards for the provision of amenity open space. Are these justified and based on robust and up-to-date evidence?	9
68.	Sites of 100 houses or more are required to provide double the minimum standards. Is this justified and based on credible up-to-date evidence? Has the impact on the viability of development been taken into consideration?	10

Policy ENV5 – Historic Environment

69.	Does the policy set out a positive strategy for the conservation and enhancement of the historic environment in accordance with national policy?	11
70.	Is the policy consistent with paragraphs 132-134 of the Framework which includes making a distinction between substantial and less than substantial harm to the significance of a designated heritage asset?	11
71.	Under the section titled 'Locally important heritage assets' reference is made to development only being permitted in exceptional circumstances. Is this consistent with paragraph 135 of the Framework in relation to the significance of non-designated heritage assets?	12
72.	Does the policy promote development within Conservation Areas and within the setting of heritage assets which would enhance or better reveal their significance in accordance with paragraph 137 of the Framework?	12

Policies CL1-CL3 – Water Management, Flooding and Renewable and Low Carbon Energy Generation

73.	Are the provisions set out in Policy CL1 justified and consistent with national policy?	13
74.	Does Policy CL2 apply to all new development? Is this justified? Is the provision of agreed discharge rates as part of any pre-application negotiations justified? Does the policy require developers to provide drainage measures beyond what is necessary for the site?	14

75.	<p>In relation to Policy CL3:</p> <ul style="list-style-type: none">a. Does the policy provide a positive strategy for renewable and low carbon energy generation in accordance with national policy?b. Is the exclusion of onshore wind energy from Policy CL3 justified and consistent with national policy?c. Is criterion f consistent with the Framework in regards to taking account of any public benefits of renewable and low carbon energy proposals?d. Is the penultimate paragraph of the policy consistent with the Framework in its reference to Green Belt? Should this refer to very special circumstances in this context?	15
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Matter 8 – The Environment

Issue – Does the Plan set out a positively prepared strategy for the preservation and enhancement of the environment (natural, built and historic); the management of water and flood risk; and the promotion of renewable and low carbon energy generation within Fylde that is justified, effective and consistent with national policy?

viii.i The Council considers that the Plan sets out a positively prepared strategy for the preservation and enhancement of the environment; and the management of water and flood risk; and the promotion of renewable and low carbon energy generation, which is justified, deliverable and in line with sections 10,11 and 12 of national policy contained within the Framework and corresponding PPG.

Policies ENV1 – ENV2 – Landscape and Biodiversity

62. Are policies ENV1 and ENV2 consistent with paragraphs 113 and 114 of the Framework?

62.1 Yes, the Council considers that both policies ENV1 and ENV2 are consistent with Section 11 of the Framework, specifically paragraphs 113 and 114. Paragraph 113 of the Framework, states that *“local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged”*. The PPG also advises that Local Plans should include policies for the conservation and enhancement of the natural environment, including landscape. This includes the wider landscape as well as designated landscapes (para 001 Reference ID: 8-001-20140306). Policy ENV1 is a criteria based policy which seeks to protect landscapes and coastal change management areas (formally known as Areas of Open Coastline) from inappropriate development through an assessment carried out in accordance with the Lancashire Landscape Character Assessment.

62.2 Paragraph 114 of the Framework operates to advise LPAs on their strategic approach to the protection, enhancement and management of the biodiversity networks and green infrastructure. Fylde has a rich and diverse landscape, and it is important and appropriate to retain, enhance and improve the landscape where possible; Policy ENV1 will be effective in achieving this aim.

62.3 A representor has objected to the wording in Policy ENV1 namely criterion b. The Council disagrees with the representor as paragraph 17 of the Framework also states that Local Plans should *‘contribute to conserving and enhancing the natural environment’* which this policy clearly does.

62.4 Policy ENV2 seeks to protect nature conservation sites and ecological networks from inappropriate development. Policy ENV2 clearly sets out the hierarchy of nature conservation sites as specified in paragraph 113 of the Framework, covering all the relevant designations from national to local, using appropriate wording from the Framework and PPG. The policy seeks to make sure that

there is no overall loss of biodiversity and geodiversity and seeks to utilise avoidance, mitigation, compensation and offsetting strategies to avoid this.

62.5 The CPRE (Campaign to Protect Rural England), The Wildlife Trust and the MMO support the policy phrasing and Natural England has not raised any objections to wording contained in Policy ENV2. The Woodlands Trust suggested the insertion of reference specifically to ancient woodlands and veteran trees, all of which the Council have agreed with and are listed in the **SD014** Schedule of Proposed Minor Modifications document.

63. Paragraph 14.6 states that the Council intends to prepare a Valued Landscapes SPD to accompany Policy ENV1. Have valued landscape areas already been defined? If so are they justified and based on robust evidence. Should they be set out in policy rather than an SPD?

63.1 No valued landscape areas have been defined to date. A significant amount of construction and development is currently taking place within the borough, including on a number of allocated sites which are already committed, this is changing the landscape significantly. The Council will commence work on a number of SPDs once the Local Plan is nearing completion. At that time, robust evidence in the form of landscape appraisals will be carried out by the Council's Landscape Architect.

Policy ENV3 – Existing Open Space

64. It has been suggested that Policy ENV3 should also refer to the protection of open space in the countryside. Is this justified?

64.1 The Council wishes to protect the finite supply of open space throughout the Borough. The Council has taken paragraph 74 of the Framework into account when developing Policy ENV3. Direct reference to the protection of Open Spaces within the countryside area has not been made, as Policy ENV3 refers to Open Spaces throughout the Borough including the countryside, Green Belt and urban areas, and as such the Council does not see the benefit of specifically referring to the countryside within Policy ENV3. The Framework makes no direct reference to open spaces within countryside areas and as such the Council have made no specific reference to countryside either.

64.2 The openness of the countryside is also protected by Policy GD4, which limits the types of development permissible within the countryside. Policy ENV3 is based on robust, up-to-date assessments provided by the Open Space Update Report 2016 (Ref: **ED059**), and the Playing Pitch Strategy and Action Plan and Assessment Report 2016 (Ref: **ED060** and **ED061**).

65. Is the purpose of ENV3a and ENV3e the same? Can the Council clarify what ENV3b is trying to achieve as it is not entirely clear?

65.1 On further review of Policy ENV3, in light of the inspector's questions, the Council suggests textual amendments to the policy as follows:

"Policy ENV3

Protecting Existing Open Space (the Green Infrastructure network)

*The existing areas of open space which are identified on the **Policies Map**, comprise the Green Infrastructure network within Fylde. The Green Infrastructure network will be protected from inappropriate development, having particular regard to the multi-functional benefits of open spaces, as follows:*

a. Public open space (the Green Infrastructure network), including sports and playing pitches (subject to policy HW3: Protection and Provision of Indoor and Outdoor Sports Facilities), will be protected unless the requirements of paragraph 74 of the Framework are met and the findings of any published and adopted needs assessment are met.

*b. Public open space (the Green Infrastructure network), including sports and playing pitches (subject to policy **HW3**: Protection and Provision of Indoor and Outdoor Sports Facilities), will be protected unless it can be demonstrated that any proposal will not have adverse effects contrary to the landscape, biodiversity and water management requirements of the Local Plan are met, and the requirements set out elsewhere in this policy are met.*

c. Development will not be permitted on existing public open space (the Green Infrastructure network) which is considered essential to the setting, character, recreational benefits for residents, or visual amenities of Key Service Centres, Local Service Centres and rural settlements.

d. Development will not be permitted on open space that makes a positive contribution to the historic environment including the character, appearance and setting of conservation areas and listed buildings, unless the proposal meets the requirements of Policy ENV5.

e. ~~Development that results in the loss of public open space (the Green Infrastructure network) or sports and recreation facilities (including playing fields) will only be permitted if one of the following criteria are met:~~

- ~~*• The open space has been identified by the council as being unsuitable for retention because it is poorly located;*~~
- ~~*• the proposed development would be ancillary to the use of the site as open space and the benefits to recreation would outweigh any loss of the open area; or*~~
- ~~*• Successful mitigation takes place and alternative, enhanced provision is provided in the same locality.*~~

f. Development that results in the loss of land currently used for allotments will only be permitted when:

- Suitable, alternative provision is made that is at least equivalent in size and quality to that which will be lost; or*
- It can be demonstrated that there is no longer a community need for the allotments.*

g. Fylde's Public Rights of Way network, comprising footpaths, byways, cycleways and bridleways will be protected and opportunities to extend the network will be safeguarded from development and supported where this improves access to key Green Infrastructure

assets, including areas of Green Belt, the two Areas of Separation, the Coastal Change Management Areas and the Lancaster Canal towpath.”

66. Is the policy justified and consistent with national policy?

66.1 The Council considers that the Open Space Update Report (2016) (Ref: **ED059**), provides a robust, up to date assessment of needs in line with the statutory policy framework relating to open space. It identifies the supply of different types of open space, sports and recreation facilities: parks, natural greenspace, provision for children and young people, allotments and community food growing areas and indoor sports provision. It identifies where in the Borough there are deficiencies in provision. The consultants also undertook surveys to establish the quality of facilities, this involved interviewing users of parks and open spaces and the consultants own analysis of the range and condition of facilities provided by each open space. The Report updates previous assessments, namely the Fylde Open Space, Sport and Recreation Study Strategy and Action Plan 2008 (Ref: **ED071**) prepared by the Council as part of the original evidence base. Although produced in 2008, the information and conclusions are still relevant to the present.

66.2 Paragraph 73 of the Framework explains that robust and up-to-date assessments of the needs for open space, sport and recreation facilities should “*identify specific needs and quantitative or qualitative deficits or surpluses of open space, sport and recreational facilities in the local area*”.

66.3 With regards to protecting open space, Policy ENV3 sets out specific exceptions whereby development would be acceptable, and when it would not, in accordance with those outlined in paragraph 74 of the Framework. As such, the Council consider that the designation and protection of open space is in accordance with national policy.

Policy ENV4 – New Open Space

67. The policy includes minimum standards for the provision of amenity open space. Are these justified and based on robust and up-to-date evidence?

67.1 The Council considers that the amenity open space minimum standards in Policy ENV4 are justified and deliverable by the evidence base. The policy is clear and sets out detailed guidance for developers on what schemes are expected to make open space contributions, the types of open space the Council prefers and the amount of open space to be provided. The minimum standards as set out in Policy ENV4 have been carried forward from the adopted Fylde Borough Local Plan, as altered, October 2005 (Policy TREC17), which has been considered an applicable policy. The standards are considered effective and conclusions outlined in the Fylde Open Space, Sport and Recreation Study Strategy and Action Plan 2008 (Ref: **ED071**), subsequently updated in 2016 by the Open Space Update Report (2016) (Ref: **ED059**) support this approach as both conclude that opportunities to increase provision and utilise developer contributions to address the shortfalls identified and the quality of current stock should be sought.

67.2 It is acknowledged that some of the evidence that supports the policy were completed a number of years ago. However, much of the key information has been updated through subsequent assessment work. Some of the technical work (the Fylde Open Space, Sport and Recreation Study Strategy and Action Plan 2008 (Ref: **ED071**), and the Open Space Update Report (2016) (Ref: **ED059**)) reflects long-term land uses rather than subtle changes in demand, and so is unlikely to change significantly over time.

67.3 This approach accords with paragraph 73 of the Framework which recognises that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities, and that *“information gained from the assessments should be used to determine what open space, sports and recreational provision is required.”* It is intended that a future SPD on Open Spaces will support Policies ENV3 and ENV4, and provide more details and explain the requirements for new open space provision, to help applicants incorporate open space provision into development proposals and to provide guidance on any financial contributions required, in line with Chapter 8 of the Framework ‘Promoting healthy communities’.

67.4 The policy will be applied flexibly to the specific detail of any planning application and the normal considerations regarding viability, scale and deliverability of provision which may be applicable to potentially small numbers of dwellings. Paragraph 14.43 of the supporting text further clarifies the flexible application of the policy.

67.5 Furthermore, the Policy was assessed as part of the draft Economic Viability Assessment of the emerging Fylde Local Plan to 2032 (Ref: **ED016a**), which concluded:

“...the overall scale of obligations, standards and policy burdens contained in the emerging Local Plan are not of such a scale that cumulatively they threaten the ability of the sites and scale of development identified in the Plan to be developed viably.”

68. Sites of 100 houses or more are required to provide double the minimum standards. Is this justified and based on credible up-to-date evidence? Has the impact on the viability of development been taken into consideration?

68.1 The Council considers that the threshold of sites of 100 houses or more having to provide double the minimum standards is justified and reasonable. The policy is clear and sets out what is expected of a developer in regards to the provision of amenity open space, knowing what is expected of a developer from the outset, helps assess whether a scheme is viable or not before purchasing the land or submitting a proposal. As with the answer to question 67, the policy is based on evidence contained in the Fylde Open Space, Sport and Recreation Study Strategy and Action Plan 2008 (Ref: **ED071**), the Open Space Update Report (2016) (Ref: **ED059**) and in addition, the policy

was assessed as part of the draft Economic Viability Assessment of the emerging Fylde Local Plan to 2032 (Ref: **ED016a**).

Policy ENV5 – Historic Environment

69. Does the policy set out a positive strategy for the conservation and enhancement of the historic environment in accordance with national policy?

69.1 Policy ENV5 sets out Fylde’s approach to the historic environment. This covers both designated and non-designated heritage assets in the Borough, and sets out the types of heritage asset that might be affected where the significance of the asset will need to be established in order to assess the impact of a development proposal.

69.2 The Council considers that Policy ENV5 does set out a positively prepared strategy for the conservation and enhancement of the historic environment in accordance with the principles set out in the Section 12 of the Framework. The first section of Policy ENV5 sets out the policy intention in regards to this. The policy is backed up by evidence in the form of the Built Heritage Strategy for Fylde (2015 to 2032) (Ref: **ED062**).

69.3 The policy has been amended and refined throughout the various consultation stages, in liaison with English Heritage (as a Statutory Body) and internal specialist officers. Following further correspondence with English Heritage regarding their representations to the Publication Version of the Local Plan, (no comments or objections were received at Revised Preferred Option stage) the Council has proposed additional modifications to this policy to enhance its effectiveness, improving clarity and readability (Ref: **SD014** Schedule of Proposed Minor Modifications).

70. Is the policy consistent with paragraphs 132-134 of the Framework which includes making a distinction between substantial and less than substantial harm to the significance of a designated heritage asset?

70.1 Although the Council considers that to distinguish between substantial and less than substantial harm to a heritage asset is a matter of fact and degree, reference to substantial harm or total loss is reiterated in paragraph 14.52 (p174). When making an informed decision the Council will also rely on officer’s professional judgement and opinion through the Development Management consultation process. Where a proposed development would cause substantial harm to the significance of a designated heritage asset, either as a result of total loss or through work which would undermine a key element of the asset’s interest, it will be refused planning permission unless the development is necessary to achieve substantial public benefits which outweigh the harm, or if all possible solutions for the asset’s conservation have been exhausted.

70.2 However, in reviewing Policy ENV5, in light of the inspector's questions, the Council now recognises the merit in reflecting more explicitly the two-tier approach concerning "substantial" and "less than substantial" harm, as set out in paragraphs 132, 133 and 134 of the Framework, therefore for clarity the Council have suggested a minor modification to ensure this principle is covered within the policy. This comprises the addition of a further paragraph following the last paragraph under the Listed Buildings title, which reflects the Framework and reads as follows:

Where development proposals 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, including securing its optimum viable use, having special regard to the desirability of preserving the building, its setting and any features of special architectural or historic interest it possesses

70.3 The wording is consistent with the terminology of the Framework and will also mean that the public benefit can be weighed against the less than substantial harm to the significance or loss of the heritage asset.

71. Under the section titled 'Locally important heritage assets' reference is made to development only being permitted in exceptional circumstances. Is this consistent with paragraph 135 of the Framework in relation to the significance of non-designated heritage assets?

After reviewing Policy ENV5, in light of the Inspector's questions, the Council now recognises the merit on amending the policy to refer to a balanced judgement as reflected in paragraph 135 of the Framework. Therefore for clarity, text in the second paragraph under the 'Locally important heritage assets' title will be amended as follows:

'Development which would remove, harm or undermine the significance of a locally important heritage asset, or its contribution to the character of the area, will only be permitted, where robust evidence can demonstrate that the public benefits of the development would outweigh the harm, based on a balanced judgement'.

72. Does the policy promote development within Conservation Areas and within the setting of heritage assets which would enhance or better reveal their significance in accordance with paragraph 137 of the Framework?

72.1 Yes, the first paragraph under the Conservation Areas title quite clearly reiterates the wording contained in paragraph 137 of the Framework. Policy ENV5 sets out a general development criteria in order to 'conserve or enhance those elements that make a positive contribution to their special character and appearance' of Fylde Borough's ten Conservation Areas. The requirements set

out in this policy are of a general nature but as such have a degree of flexibility and will also be supported by a suite of Conservation Area Appraisals. The adopted Conservation Area Appraisal will be a material consideration in determining relevant planning applications and therefore will be afforded appropriate regard through the planning process.

72.2 Although paragraph 137 of the Framework is not quoted verbatim within the policy, the second paragraph under the title of Listed Buildings does state that:

'In addition to the requirements of national policy, applications for works to listed buildings alterations, extensions, changes of use or new development within its curtilage or setting must'

72.3 However, the Council would be content to include an additional bullet point within the second set of bullet points on page 176, to conform better with the position of paragraph 137 of the Framework, should the Inspector consider this to be necessary:

"Look for opportunities for new development within the Borough's Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance."

Policies CL1-CL3 – Water Management, Flooding and Renewable and Low Carbon Energy Generation

73. Are the provisions set out in Policy CL1 justified and consistent with national policy?

73.1 Policy CL1 accords with Section 10 of the Framework 'Meeting the challenge of climate change, flooding and coastal change' ensuring that flood risk issues are given due consideration in the determination of planning applications, in line with national guidance alongside the integration of measures to reduce flood risk and avoid an adverse impact on water quality and quantity within the Borough, in particular bathing water quality, whilst adapting to climate change and associated impacts along the lifetime of the development. Responses from previous consultations have refined the policy and as such, the policy applies a sequential, risk-based approach to the location of development to avoid areas of flood risk and direct development away from the areas at highest risk. The policy is justified and supported by evidence contained in various reports and assessments, including: **ED049** 'Lancashire Climate Change Strategy', **ED050** 'Lancashire and Blackpool Local Flood Risk Management Strategy', **ED051** 'Ribble Catchment Flood Management Plan' a full catalogue relating to climate change, renewable energy and flood risk on the comprehensive list of evidence page on the Council's website. The policy is considered to be deliverable and effective and aims to manage flood risk from all sources.

73.2 In conformity with the Framework, specifically paragraph 103, Policy CL1 criterion a. also establishes that development must seek to minimize the risk and impact of flooding through the implementation of Sustainable Drainage Systems (SuDS) to ensure that development is appropriately

flood resilient and resistant. The policy has been positively prepared with no formal comment or objection received from the Environment Agency (EA), and United Utilities supported the wording, specifically criterion a. One representor has objected to certain text within this policy implying that it replicates the role of the EA and requires developers to incorporate unnecessarily onerous drainage measures. They consider the burden of combined policy requirements can impact on the viability of developments. The Council strongly disagrees with this assumption, if drainage measures have to be adhered to, as a statutory requirement, then these details should be readily available, at no further cost to the developer with no impact on viability.

74. Does Policy CL2 apply to all new development? Is this justified? Is the provision of agreed discharge rates as part of any pre-application negotiations justified? Does the policy require developers to provide drainage measures beyond what is necessary for the site?

74.1 Yes, Policy CL2 will apply to all new development. The policy is considered justified as it is in line with up to date evidence as specified in the response to Question 73, and national policy contained within the Framework, specifically paragraph 100, which states *'Local Plans should develop policies to manage flood risk from all sources, taking account of advice from the Environment Agency....other flood risk management bodies And internal drainage boards.'* The policy phrasing has been supported by the EA and UU.

74.2 PPG Paragraph: 050 Reference ID: 7-050-20140306, states that LA's and developers should seek opportunities to reduce the overall level of flood risk in the area and beyond, which can be achieved through the layout an form of development. Development Management Officers have advised that having discharge rates agreed as part of the pre-application stage saves money and time, enabling the planning application to be determined quicker.

74.3 Fylde is a very low lying, relatively flat and poorly drained area. There are local issues, for example new development around Junction 4 of the M55, will increase surface water run-off into slow flowing dykes. These dykes all merge and enter the Ribble Estuary just east of Lytham. Parts of Lytham are in Flood Risk Zone 3, because of the existing amounts of water flowing through Liggard Brook. It is important that new development at Junction 4 of the M55 does not increase this risk.

74.4 The policy only requires a developer to provide drainage measures for the application site and is practical in the sense that it provides a degree of flexibility, as developers can submit evidence that the measures contained within the policy are either not feasible for the development proposal or would adversely affect the viability. The decision maker will need to assess this information to come to a view as to whether the information is sufficient and the case has been made for any particular development departing from the provisions of the policy, if this is the case then national discharge (SuDS) hierarchy would have to be adhered to.

75. In relation to Policy CL3:

a. Does the policy provide a positive strategy for renewable and low carbon energy generation in accordance with national policy?

75a.1 Fylde has a number of assets within the Borough that need to be safeguarded. As such Policy CL3 tries to strike a balance between those existing assets that are protected by existing legislation and regulations with those aims identified to contribute to delivery of renewable and low carbon energy generation. The justification that follows the policy in the Plan explains in more detail what the nature of the asset is and why it should be taken into consideration.

75a.2 As such, as a requirement of Policy CL3 the Council request that evidence is submitted which supports any proposal that does not have a detrimental impact on any of the criteria set out in a.- j. of the policy. The policy sets out what the evidence should consist of and allows for a proportionate approach in seeking energy efficiency development having regard to the nature of the development. No justification by the developer needs to be submitted for this form of development.

75a.3 The Policy has been reviewed in light of this question from the Inspector, the Council agrees that the first paragraph should be amended to make it clear that the Council wishes to provide a more positive strategy for renewable and low carbon energy in accordance with national policy. The first paragraph of Policy CL3 will be amended as follows:

'Renewable and low carbon energy development potential – excluding on shore wind turbines - is significant in Fylde. Opportunities for renewable and low carbon development should be maximised, while ensuring that adverse impacts are addressed satisfactorily; including cumulative landscape and visual impacts. Proposed developments will be assessed in relation to the following criteria:

75a.4 The decision maker will need to assess all evidence and come to a view as to whether the information is sufficient and the case has been made for any particular development departing from the provisions of this policy.

75a.5 The Council considers that the policy is consistent with PPG 'Renewable and low carbon energy', which contains guidance on renewable and low carbon energy including guidance on producing criteria based policies.

b. Is the exclusion of onshore wind energy from Policy CL3 justified and consistent with national policy?

75b.1 The written ministerial statement made on 18 June 2015 is quite clear that when considering applications for wind energy development, local planning authorities should (subject to the transitional arrangement) only grant planning permission if:

- 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.

75b.2 Paragraph: 005 Reference ID: 5-005-20150618 of PPG 'Renewable and low carbon energy', also states that *'In the case of wind turbines, a planning application should not be approved unless the proposed development site is an area identified as suitable for wind energy development in a Local or Neighbourhood Plan'*.

75b.3 There are no suitable areas in Fylde where medium/large scale wind energy development is acceptable even in principle, due to the large number of overlapping constraints, including a NATS safeguarding zone designation, the presence of Blackpool airport, BAE's aerodrome, including radar and military radio facilities, requirement for engagement with the MoD and the potential for the impact on species linked to the European-designated sites.

75b.4 The Council consider it would be unnecessary to plan for something that cannot take place in line with paragraph 154 of the Framework which states that *'Local Plans should be aspirational but realistic. They should address the spatial implications of economic, social and environmental change. Local Plans should set out the opportunities for development and clear policies on what will or will not be permitted and where'*. Accordingly, Policy CL3 specifically excludes onshore wind turbines, and this is considered to be a realistic approach.

c. Is criterion f consistent with the Framework in regards to taking account of any public benefits of renewable and low carbon energy proposals?

75c.1 Criterion f has been reviewed in response to the Inspector's question. The Council agrees that the criterion should be modified to refer to consideration of the impact on heritage assets and their settings in accordance with Policy ENV5:

"f. That the proposal for renewable and low carbon energy would not harm the significance of heritage assets and their settings, unless such harm is justified in accordance with Policy ENV5"

75c.2 It is also recognised that a caveat is required to criterion e:

"e. Impacts on land resources, in particular that the development would not be sited on the best and most versatile agricultural land (grades 1, 2 and 3a), unless the most compelling evidence is provided, and areas of deep peat which function as a carbon store"

d. Is the penultimate paragraph of the policy consistent with the Framework in its reference to Green Belt? Should this refer to very special circumstances in this context?

75d.1 In reviewing Policy CL3, in light of the inspector's questions, the Council recognises that the policy should be amended to refer to 'very special circumstances' as reflected in paragraph 91 of the Framework. Therefore for clarity text will be amended as the following:

Renewable and low carbon energy proposals within the Green Belt and Areas of Separation will need to demonstrate ~~that any adverse impacts of granting permission will not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole, specific policies in that Framework, or other policies in the Local Plan~~ very special circumstances where elements of any proposed renewable energy project comprises inappropriate development.