

DARLINGTON LDF CORE STRATEGY EXAMINATION

RESPONSE BY BUSSEY & ARMSTRONG LTD TO DOCUMENT DBC018 POLICY CS3: ON SITE PROVISION OF RENEWABLE ENERGY METHODOLOGY STATEMENT

1. Introduction

1.01 At the Examination hearing session on 26 January 2011, Bussey & Armstrong Ltd ['B&A'] participated in the discussion in respect of Matter 2, and explained the basis for the Company's assertion that in its present form, Policy CS3 is unsound. At the end of the discussion, the Inspector suggested to the Council that the Company had raised serious points about the justification for Policy CS3 and what it would require of developers, and invited the Council to prepare a note explaining its position. Document DBC018 has been prepared in response to that request, and this statement sets out the response of B&A to its content.

1.02 The response has been prepared in the light of B&A's position as set out in its representation in respect of Policy CS3, and as explained at the Examination hearing, i.e. that whilst the intent of Policy CS3 is generally supported, [a] the requirement for at least 20% on site provision of decentralised and renewable or low carbon sources of energy in the strategic locations is not adequately justified and [b] the wording of the policy is such that it will not be effective, and the approach adopted is considered to be inconsistent with Government policy guidance.

2. Response to DBC018: Justification for the 20% Target in Strategic Locations

Paragraph 2.1

2.01 Paragraph 2.1 of DBC018 refers to Policy 38 of the Regional Spatial Strategy, and its requirement that major new developments of more than 10 dwellings or 1000m² of non-residential floorspace should secure at least 10% of their energy supply from decentralised and renewable or low-carbon sources, unless, having regard to the type of development involved and its design, this is not feasible or viable. Setting aside the continuing legal debate over the relevance of RSS in the planning process, this statement is clearly correct, and B&A take no issue with the 10% figure that the Council has implemented since 2008, and which is proposed to be used on all sites in the Borough, with the exception of the identified strategic sites.

- 2.02 It is however relevant to note that in highlighting RSS Policy 38, the Council has omitted to refer to Policy 39, which reiterates the 10% renewable energy figure, whilst ‘aspiring’ to 20% of regional consumption by 2020. That aspiration does not represent a justification for the selective approach of applying the 20% figure to a limited number of strategic sites in the Borough, whilst retaining the 10% figure for the majority of sites elsewhere.

Paragraphs 2.2 to 2.6

- 2.03 Paragraphs 2.2 to 2.6 of DBC018 essentially reiterate information set out in Tables 4.1 and 4.2 of SDO18. That information was discussed at the Examination hearing, and no further comment on the factual content of those tables is necessary. The key issue is not the content of the tables, but whether or not the assertions that are made constitute proper, adequate justification for the 20% requirement.

Paragraphs 2.7 to 2.13

- 2.04 Paragraphs 2.7 to 2.13 of DBC018 seek to explain, in the context of SDO18, why the Council believes that the 20% requirement in strategic locations is justified. The responses of B&A to the various points are as follows.
- 2.05 The Council’s first point [paragraph 2.7] is that the majority of new strategic locations are expected to be delivered from 2016 onwards, when development will have to be zero carbon and renewable energy is likely to be required to deliver this target. This is a point that is made twice in the description of Option 3 in Table 4.1 of SDO 18, i.e. in respect of feasibility/viability and in the conclusions, and the fact that such emphasis is placed on the point suggests that it is central to the argument.
- 2.06 The problem with this approach as a suggested justification for the selective 20% figure is that it is not necessarily the case that renewable energy equates directly to the zero carbon target. The approach to zero carbon development is defined as incorporating flexibility, and allowable solutions for Codes 5 and 6 are likely to include a range of measures, including energy efficient appliances, advanced forms of building control systems which reduce energy use etc.

- 2.07 The Council's attempt to justify the 20% figure by reference to the future zero carbon target is overtly simplistic and inappropriate. The use of the 20% target must be fully justified on firm evidence at this stage of the LDF process, and it is not appropriate to rely on future requirements as a means of avoiding the need to provide such firm evidence.
- 2.08 However, if the Council's argument of compliance with future requirements were to be accepted, then it would apply equally to the lower 10% figure applied on all sites other than the strategic locations. In such circumstances and as a matter of logic, the identification of a 20% figure in selected locations is meaningless.
- 2.09 Paragraph 2.8 of DBC018 reiterates the view expressed in SDO18, i.e. that the 20% threshold is the trigger point for a viable communal scale system which is the most cost effective approach to achieve the 2016 target. Once again, this highlights the reliance placed on the inappropriate link between renewable energy targets and zero carbon objectives.
- 2.10 Paragraph 2.9 goes on to list the strategic locations that will be required to meet the 20% target, and suggests that 'based on SD018 and good practice cited by the Government' the Council consider that there is a 'demonstrable opportunity' to secure at least 20% from on site renewable energy sources.
- 2.11 In this regard, the precise terms of the policy requirement set out in the Supplement to PPS1 are important. Paragraph 26 states:

'Planning authorities should have an evidence-based understanding of the local feasibility and potential for renewable and low-carbon technologies, including microgeneration, to supply new development in their area. This may require them, working closely with industry and drawing in other appropriate expertise, to make their own assessments.'

Drawing from this evidence-base, and ensuring consistency with housing and economic objectives, planning authorities should:

(i) set out a target percentage of the energy to be used in new development to come from decentralised and renewable or low-carbon energy sources²¹ where it is viable. The target should avoid prescription on technologies and be flexible in how carbon savings from local energy supplies are to be secured;

(ii) where there are particular and demonstrable opportunities for greater use of decentralised and renewable or low-carbon energy than the target percentage, bring forward development area22 or site-specific targets to secure this potential;

and, in bringing forward targets,

(iii) set out the type and size of development to which the target will be applied; and

(iv) ensure there is a clear rationale for the target and it is properly tested'

2.12 In the case of the North West Urban Fringe strategic location [that with which B&A is directly concerned], SDO18 goes no further than identifying West Park Hospital as a potential site for locating a Biomass CHP or boiler. That suggestion is made without any reference to either viability or feasibility or the intentions or wishes of the hospital. No assessment is made of any 'particular and demonstrable' potential which may exist at the North West Urban Fringe or the other strategic locations; there is no clear rationale, and no testing of the target. The approach is one of assumption and assertion, which falls well short of 'evidence based understanding', and which is clearly in conflict with Government policy guidance.

2.13 Paragraph 2.10 of DBC018 refers to the application of the 10% target on sites outside the strategic locations, and notes the suggestion in SDO18 that smaller sites may find a higher target challenging. This may well be the case, but as noted in paragraph 2.08 above, if the 20% figure is to be taken as equating to the 2016 zero carbon target, then it should be applied to all sites.

2.14 Paragraph 2.13 of DBC018 refers to the fact that Policy CS3 states that the percentage contribution will be required unless it can be shown that it is not feasible or viable. That is a reasonable approach, but the inclusion of this provision should not be regarded as justifying policy requirements that derive from an inadequate evidence base.

3. Response to DBC018: Delivery

3.01 The following comments are made without prejudice to the view that, as expressed above, the application of the 20% target in the strategic locations is not justified.

- 3.02 Paragraphs 3.1 to 3.6 of DBC018 explain how Policy CS3 would be delivered in the strategic locations. No comment is made on the detailed approach to energy calculations etc set out in paragraphs 3.1 to 3.5.
- 3.03 The two paragraphs numbered 3.6 explain how the 20% target will be applied across each strategic location, and this was a matter that was discussed at the Examination hearing. B&A's stated concern was that bearing in mind [a] the size of the locations [b] the timescales for development and [c] the variety of development types that could potentially be involved, later development phases could be faced with unreasonable requirements in order to meet the overall target if [for whatever reason] earlier phases fail to make an adequate contribution to the overall requirement. The suggested approach is likely to be difficult to manage over an extended timescale, but at the very least, future SPD guidance should take this point on board and include provisions designed to protect the developers of later phases from earlier errors or misjudgements, should they occur.
- 3.04 Paragraph 3.7 refers to the SD018 estimate that new development could increase CO2 emissions by 6% in 2026, which in the opinion of the authors will not have a significant impact on the Borough's annual emissions. However, the paragraph indicates that the Council considers that any addition to the Borough's carbon emissions would be significant as this goes against the policy direction national level and sub regional levels.
- 3.05 The effect of paragraph 3.7 is to identify an area in which the Council rejects a key conclusion within what it relies on elsewhere as the evidence base, and this in turn highlights the inconsistency in the overall approach, and a fundamental flaw in the justification for the 20% target.
- 3.06 In this regard, paragraph 3.3.7 of the Core Strategy DPD refers to the use of the 20% target in the identified strategic locations, suggesting that new development in these *locations 'is likely to significantly add to the Borough's overall energy demand'*. However, this statement conflicts directly with the view expressed in SDO18, and when account is taken of the fact that the strategic locations will only account for a proportion of the 6% increase, it is apparent that the suggested justification for the use of the 20% target [i.e. that development in the strategic locations will add significantly to the District's energy demand] is manifestly unsound.

3.07 Finally, whilst SDO18 suggests that the 20% target is likely to be viable and feasible for most strategic locations, no evidence is provided to back up or explain that contention, and no attempt is made to explain in what locations, and for what reasons the target may not be attainable . Again, the approach is at odds with the Supplement to PPS1, which calls for an evidence-based understanding of local feasibility and potential.

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