Renewable Energy Review – Supplementary evidence provided by Richard Feasey with regard to Planning

In answer to the point raised by the individual who has written in to the review
'The Merton Rule'

1. The 'Merton Rule' is the groundbreaking planning policy, developed by London Borough of Merton and adopted in 2003 as part of its statutory development plan which requires the use of renewable energy onsite to reduce annual carbon dioxide (CO2) emissions in the built environment. The policy states:

"The council will encourage the energy efficient design of buildings and their layout and orientation on site. ***All new non residential developments above a threshold of 1,000sqm will be expected to incorporate renewable energy production equipment to provide at least 10% of predicted energy requirements****.*

2. The justification sets out that where the incorporation of renewable energy equipment would make the development unviable it will not be expected. It also sets out the means of generating renewable energy to be photovoltaic energy, solar-powered and geo-thermal water heating, energy crops and biomass, but not energy from domestic or industrial waste.

3. The impact of the 'Merton rule' has been widespread. It t was adopted by the Mayor of London and many other councils, and has also become part of national planning guidance (PPS22 Renewable Energy)

Policy applicable in Kent

4. Following the demise of the Kent Structure Plan in 2009 there is no mechanism or process for statutory development plan policies applied on a county wide basis. However its successor the regional plan (South East Plan) which has replaced it does include a region wide policy (NRM11) which requires that districts , in preparing their Local Development Frameworks , set local targets for 'ambitious but viable' proportions of the energy supply for new development to come from decentralised and renewable or low carbon energy . In advance of local targets being set new developments of more than 10 homes or 1000 sq m of non residential floorspace should secure at least 10% of their energy from decentralised and renewable or low carbon sources unless this is not 'feasible or viable'. This is a de facto application of the 'Merton rule' to the South East region as a whole.

5. The South East Plan also incorporates regional and sub regional (Kent) targets for 2010 and 2016 for land based renewable energy , encourages local collaboration to undertake more detailed assessments of local potential, encourages small scale community based schemes and raised awareness, ownership and understanding of renewable energy. (South East Plan Policy NRM14). The policy targets for Kent are 111MW of installed renewable energy capacity at 2010 and 154 MW by 2016.

Local Policies

5. As District Councils bring forward their individual Local Development Frameworks (LDFs) district based policies are emerging. To date these have mainly reflected, and replicated the provisions of the regional policy rather than identify locally based bespoke targets. Moreover policies are often focused around more broadly based

policies addressed to achieving higher sustainable construction standards and lower carbon performance based on national rating systems (Code for Sustainable Homes in the case of residential development or BREEAM standards[1] in the case of non residential buildings) (see for example the Ashford Borough and Dover District Core Strategies. The Code for Sustainable Homes (CSH) is a 6 category code reflecting progressive levels of improvement in carbon performance – Code 6 = zero carbon). The CSH covers a range of factors in addition to energy usage e.g. water usage, materials, waste, surface water run off. Government is introducing the Code's energy and water standards on a national basis through stepped changes to the Building Regulations (Code 4 from 2013 and Code 6 from 2016) .Attainment of higher Code levels requires the incorporation of renewable energy production.

Recent Developments in National Policy

6. In 2007 a national Planning Policy Statement [2] placed tackling climate change at the heart of planning. PPS22 currently provides guidance on Renewable Energy. In early 2010 the previous Government published for consultation new draft guidance[3] setting out a framework of planning policy and guidance for securing progress against the UK's targets to cut greenhouse emissions and to use more renewable and low carbon energy. This reflects the strengthened emphasis on delivery of renewable and low carbon energy arising from:

- ***The Climate Change Act 2008*** which introduced a statutory target of reducing carbon emissions by 80% below 1990 levels by 2050.
- ***EU Directive 2009/28/EC*** where the UK is committed to sourcing 15% of its energy from renewable sources by 2020.
- ***The Planning Act 2008*** which introduced a new duty for regional and local policy to include climate change policies to ensure they contribute to the mitigation of, and adaptation to, climate change.

7. This guidance has yet to be confirmed and may change as a result of the change in Government. It nonetheless portends of a more proactive, enabling approach to planning for renewable energy and a rebalancing of the weight attached to other planning considerations e.g. landscape. townscape and protection of the Green Belt where these are potentially in conflict with renewable energy proposals

8. The draft guidance exhorts local planning authorities (lpas) to:

- '*Support, and not unreasonably restrict'*, renewable and low carbon energy developments;
- Ensure that local policies, including those for protection of the landscape and townscape, do not preclude the development of specific technologies other than in ' *the most exceptional circumstances';*
- Support opportunities for community led renewable and low carbon developments;

- Local requirements for decentralised energy, based on an assessment of local opportunities, should be set out in LDFs and relate to identified development areas or specific sites.

[1] BREEAM – Building Research Establishment Environmental Assessment Method
[2] Supplement to PPS1 on Planning and Climate Change.
[3] Draft Planning Policy Statement ' Planning for a Low Carbon Future in a Changing Climate'

- Local targets for the use of decentralised energy in new development should be expressed as either a percentage reduction in CO2 emissions, or an amount of expected energy generation.

9. At the same time local requirements relating to decentralised energy, building sustainability etc must not make the development financially unviable; i.e. the viability test embedded in earlier guidance is retained.

10. The draft PPS emphasises the need for planning authorities to look favourably on innovative proposals for well designed sustainable buildings. Incompatibility with existing townscape should not, of itself, warrant refusal of planning permission. Refusal should only occur if the development would cause material harm or removal of an *'internationally or nationally designated heritage asset'*.

11. This is a contentious provision. In particular, visual amenity and design quality are material planning considerations of substantial weight in planning decisions, irrespective of setting or location, and arguably should not be set aside or overridden simply because there is a current need to raise the profile of low carbon technology. If the intention to ensure that low carbon factors outweigh all other planning considerations, then a significant rebalancing of the planning system is implied.

12. The draft guidance goes on to say that planning authorities should:

- Expect applicants to have taken appropriate steps to mitigate any adverse impacts;
- Give significant weight to the wider environmental, social and economic benefits of renewable or low carbon energy projects whatever their scale;
- Not require applicants to demonstrate overall need for renewable or low carbon energy;
- not question the energy justification for why a renewable/low carbon energy proposal must be sited in a particular location;
- not refuse proposals because a regional renewable energy target has been reached;
- 'take great care' to avoid stifling innovation;
- recognise that many renewable energy projects will comprise inappropriate development when in the Green Belt and the need for developers to therefore demonstrate '*very special circumstances'* to outweigh any harm whilst acknowledging that the wider environmental benefits associated with increased renewable energy production may constitute '*very special circumstances'*

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