FURTHER WRITTEN STATEMENT
HYNDBURN LOCAL DEVELOPMENT FRAMEWORK
CORE STRATEGY DEVELOPMENT PLAN DOCUMENT

2 September 2011

Our Ref: Q20232
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1 INTRODUCTION

1.1 Quod has been instructed by Omega Atlantic Limited, who own the former Huncoat Power Station site and associated railway sidings, to submit a further written statement in relation to various matters within the Core Strategy (CS). This statement directly addresses the relevant Matters and Issues for Examination.

1.2 This further written statement follows on from and expands upon the original representations by Omega Atlantic to the Publication Edition (August 2010) and Revised Publication Edition (November 2010) which were submitted by Sarah Worthington of Peacock and Smith (Respondent ID CS038). However, for the Inspector’s benefit, Quod has since been appointed by Omega Atlantic to act on its behalf.

1.3 A deadline extension to Friday 2 September 2011 was agreed with the Programme Officer, Michael Walker.
2 NEW MATERIAL CONSIDERATIONS

2.1 There are a number of new material considerations that are relevant to the representations submitted by Omega Atlantic.

   a) Planning for Growth

2.2 In March 2011 the Minister of State for Decentralisation made a written Ministerial Statement ‘Planning for Growth’ which sets out the Government’s commitment to reforming the planning system so that it promotes sustainable growth and jobs. Given the recent nature of this Statement and the fact that significant weight should be attached to the need to secure economic growth and employment it is relevant to address it in this Statement.

2.3 The Planning for Growth agenda is meant to have immediate effect. The Government’s top priority in reforming the planning system is to promote sustainable economic growth and jobs. Local planning authorities are therefore expected to act on the Ministerial Statement and press ahead in preparing up-to-date development plans using this opportunity to be proactive in driving supporting growth. Specifically, the Ministerial Statement states:

   “They should make every effort to identify and meet the housing, business and other development needs in their areas, and respond positively to wider opportunities for growth, taking full account of relevant economic signals, such as the land prices. Authorities should work together to ensure that needs and opportunities that extend beyond (or cannot be met) within their own boundaries are identified and accommodated in a sustainable way, such as housing market requirements that cover a number of areas, and the strategic infrastructure necessary to support growth.”

2.4 The Ministerial Statement also paves the way for the National Planning Policy Framework (the consultation draft of which is referred to below) and a new presumption in favour of sustainable development that will help to ensure the default answer to development and growth is “yes”. Local Plans and their policies should therefore be proactive, positive and responsive taking into account market signals.
b) Draft National Planning Policy Framework

2.5 DCLG published the Consultation Draft of the National Planning Policy Framework (NPPF) on 25 July 2011. The draft NPPF contains a number of references to the presumption in favour of sustainable development, and the need to support economic growth through the planning system. It states that local planning authorities should plan positively for new development and approve all individual proposals where possible. It goes on to note that LPAs should:

“Prepare Local Plans on the basis that objectively assessed development needs should be met, and with sufficient flexibility to respond to rapid shifts in demand or other economic changes” (our emphasis)

2.6 Paragraph 15 of the Consultation Draft goes on to note that:

“All plans should be based upon and contain the presumption in favour of sustainable development as their starting point, with clear policies that will guide how the presumption will be applied locally.”

2.7 The NPPF includes a set of core land-use planning principles that underpin both the plan-making and development management processes. Those principles include, inter alia:

“Planning policies and decisions should take into account local circumstances and market signals such as land prices, commercial rents and housing affordability. Plans should set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business community” (our emphasis)

2.8 With regard to plan-making, it is important to highlight that the NPPF does not differentiate between, for example, employment development and retail or leisure development when setting out the requirement for strategic policies to deliver ‘economic development’. Furthermore, it states that Local Plans should, inter-alia:

“Indicate broad locations for strategic development on a key diagram and land-use designations on a proposals map;

Allocate sites to promote development and flexible use of land, providing detail or form, scale, access or quantum of development where appropriate.”
2.9 However, when dealing with business and economic development in the Planning for Prosperity chapter, the Consultation Draft makes it clear that policies should be flexible enough to accommodate requirements not anticipated in the Plan and to allow a rapid response to changes in economic circumstances. As a result, paragraph 75 goes on to note:

“Planning policies should avoid the long term protection of employment land or floorspace, and applications for alternative uses of designated land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses.” (our emphasis)

2.10 Finally, the NPPF deals expressly with the issue of ensuring viability and deliverability is considered in the context of plan-making (paragraphs 39-43 inclusive). In particular, it notes that to ensure viability, the costs of any requirements likely to be applied to development, such as infrastructure contributions should, when taking into account normal costs of development and on-site mitigation, provide acceptable returns to a willing land owner and willing developer to enable the development to be deliverable.

c) **Compulsory Purchase Orders (refs. LDN023/C2300/006/1/1 & DN5063/60/1/27)**

2.11 There has been confusion surrounding the outcome of the two Compulsory Purchase Orders which were made by Lancashire County Council on 8 October 2008. When we met Hyndburn Borough Council on 8 August 2011 to discuss Omega Atlantic’s representation to the Core Strategy we were advised that both the Council and the County Council were under the impression that all of the land relating to the entire length of the Whinney Hill Link Road (WHLR) had been compulsorily purchased. This is, however, not the case, and we would draw the Inspector’s attention to the words the land described therein, i.e. “the land subject to that order”. Clarification is available from two sources:

- The WHLR CPO itself. The Order describes the land subject to that Order both in writing and by reference by the Order Map. It is to be noted that the Order does not apply to the whole section of land referred to in the Department of Transport’s letter.
- Reference should also be made to the Inspector’s Report, particularly paragraph 6.7 (which the scope of the WHLR CPO is described, together with its relationship with the ELWPT CPO). The scope of the relevant planning permission is described at paragraph 6.8. See also paragraph 6.122 of the Inspector’s Report which again describes the scope of the WHLR CPO.

2.12 The result of the CPO decisions, therefore, is that the second phase between Altham Lane and the top of Bolton Avenue has been confirmed, but the first which was initially intended to provide private road access to the ELWTP was not confirmed. Understanding the outcome of the CPO decisions and the main beneficiaries of the WHLR is fundamental in the context of the CS hence this is being brought to the Inspector’s attention.

d) Planning Permission Reference 11/05/0535

2.13 Planning permission for the East Lancashire Waste Technology Park, including private access road (Phase 1 of the link road), expired on 20 July 2011. This is a material consideration in the context of the area based policies for Huncoat and the CS needs to be updated to reflect this fact. As we will go on to discuss, in light of the fact that the ELWTP permission has expired and the CPO of this land to facilitate this development has not been confirmed because there was no proven need for the scale of the facility proposed, there is absolutely no basis for including reference to a Waste Technology Park or other form of built waste management facility in Policy A8.
3 SOUNbNESS OF THE CORE STRATEGY

3.1 Omega Atlantic Limited is broadly supportive of the Council’s allocation of the former Huncoat Power Station as a Strategic Employment Site. It is also acknowledged that for the site to be brought forward suitable access is required to the strategic road network.

3.2 However, Omega Atlantic is concerned that the Plan, as drafted, is unsound for the following reasons:

- Policy A8 not consistent with national policy;
- Policy A8 is not deliverable or flexible and, therefore, the plan is not considered to be effective; and
- Policy A9 is not deliverable and, therefore, the plan is not considered to be effective.

3.3 We will elaborate on these concerns when dealing with the each of the relevant Matters and Issues for Examination in turn below. Suggested changes to the Plan are made at the end of the section.

a) Matters and Issues for Examination

iii. What is the basis and justification for the strategic employment site at Huncoat, and is this consistent with the Pennine Lancashire MAA/Spatial Strategy, including meeting the employment needs of Hyndburn?

3.4 The former Huncoat Power Station site has been allocated for employment purposes for more than 15 years having previously been identified as ‘Site V’ (22 hectares) in the Hyndburn Local Plan which was adopted in 1996. At that time the supply of employment land exceeded the Structure Plan requirements, but the site was allocated given its strategically important location and also to improve the chances of achieving complete reclamation of the site.
3.5 Notwithstanding the site’s allocation, the site remains vacant and reclamation has not taken place. Indeed, the only development activity on Omega Atlantic’s land has related to the ELWTP and link road. No economically viable redevelopment of the site has come forward which is representative of the associated cost of doing so, including gaining suitable access to the strategic road network.

3.6 It is extremely well located in relation to the strategic road and rail network which clearly warrants its strategic employment allocation. Indeed, the site’s importance and potential as a strategic employment site servicing Hyndburn and Pennine Lancashire were most recently recognised in the Genecon Study, Towards a Sustainable Employment Land Strategy (2005).

3.7 The development of the site is also seen as having the potential to make a ‘significant difference’ to Hyndburn and Pennine Lancashire in the medium to long term. However, as the Huncoat Topic Paper (July 2011) rightly recognises, viability is an extremely important factor in realising development. Omega Atlantic’s representations to date have alluded to this through the suggested changes to the wording of Policy A8 and, specifically, reference to the appropriateness of ‘mixed uses’ in addition to employment uses (B1, B2 and B8). The former are likely to play a key part in the commercial deliverability of the Strategic Employment Site and some form of ‘enabling development’ will be required to realise the value necessary to bring the site forward. The policy therefore needs to recognise this in the context of the site’s significance and the Council’s desire to bring it forward in the next 5 to 10 years.

3.8 As we have highlighted, the March 2011 Ministerial Statement and consultation draft of the National Planning Policy Framework (NPPF) are together significant material considerations that give a clear indication of the Government’s ‘direction of travel’ in planning policy. These recent publications reinforce our view that Policy A8 should allow for uses outside the strict B classes to ensure the site is brought forward, and to avoid a scenario whereby an overly restrictive policy may lead to long term protection of employment land which is not advocated by emerging Government policy. Planning policy should have sufficient flexibility to respond to rapid shifts in demand or other economic changes and there is a real risk that the site may lie dormant for a further 15 years if the CS does not recognise this. Reference to ‘enabling development’ and ‘viability’ should be made in the policy so that it is sufficiently positive and flexible to ensure the deliverability of an economically viable development.
iv. Are the proposals for Huncoat in the Core Strategy consistent with the latest proposals for waste management facilities and a link road in the Lancashire Minerals & Waste Site Allocations DPD?

3.9 The ELWTP CPO was not confirmed on two grounds. First, that it was invalid and, secondly, that there was no strong evidence available of the need for the even the reduced level of facilities proposed. Planning permission for the ELWTP (ref. 11/05/0535) has also expired meaning that the deliverability of the waste management facilities on the former Huncoat Power Station site is now extremely unlikely.

3.10 Lancashire's Minerals & Waste Site Allocations DPD Submission Version continues to allocate Huncoat for a large scale built waste management facility within an annual capacity of 330,000 tonnes (Policy WM2 & WM4). However, the DPD notes that the facility “will be dependent the link road being constructed” (sic). In addition, and in relation to the Whinney Hill Link Road the route of which is protected under Policy SA2 and allocated under Policy MRT11 of the DPD, the document states that “the scheme is on hold whilst an inquiry into the required Compulsory Purchase Order is undertaken”. However, the compulsory purchase of only part of the link road has been confirmed and the case for new waste facilities is therefore clearly undermined.

3.11 This issue has been identified as Matter 12 in the Lancashire's Minerals & Waste Site Allocations DPD Matters and Issues for Examination document. The Inspector specifically questions where this situation has undermined the assumptions behind the waste management capacity potentially available at this site and whether Huncoat should even be “included as an identified location, or simply a more generalised reference to an improved road access being required before significant new waste management development can take place?” The Inspector therefore recognises the flaw in the case for waste management proposals on the Huncoat site given they are entirely dependent upon the link road, the first phase of which along with the ELWTP has not been confirmed and, in addition, the planning permission for the ELWTP has now expired.
3.12 The Examination in Public into the Lancashire’s Minerals & Waste Site Allocations DPD begins on 20 September 2011. Omega Atlantic has submitted representations to the DPD and will be appearing at the EiP to seek the removal of the large built waste management facility allocation on the basis that there is no need for the scale of facility proposed. This view is fully supported by the Inspector’s Report following the CPO Public Inquiry.

3.13 It follows that Policy A8 of the CS should not refer to a Waste Technology Park or built waste management facility. Omega Atlantic request that reference should be removed altogether for the reasons outlined, namely the failure of the ELWTP CPO, that there is no proven need for the scale of facilities proposed and the planning permission for the ELWTP has now expired. In short, a built waste management facility is not deliverable on this site and the Plan is therefore not ‘effective’ as drafted. Whilst we acknowledge the Council’s inclusion of ‘/or’ in Policy A8 when referring to B1, B2 and B8 uses and the WTP, as set out in the Schedule of Further Proposed Changes (July 2011), it is appropriate to delete reference to the Waste Technology Park / built waste management facility altogether because it is not deliverable.

3.14 Turning to the link road, as mentioned, the WHLR route is protected and allocated in Lancashire’s Minerals & Waste Site Allocations DPD. The CS at Policy A9 similarly supports the construction of the link road. The WHLR CPO (which the CS describes as Phase 2 - a 1.9 kilometre length of road from Whinney Hill Road and Bolton Avenue to Altham Lane) was confirmed. However, the ELWTP CPO which included access and therefore Phase 1 of the link road was not confirmed. Planning permission for the entire length of the WHLR nevertheless exists (Lancashire County Council reference 11/08/0482, dated 29 April 2009).

3.15 In the committee report for the WHLR application, which expires in April 2014, the reason for the road is made plainly clear, namely to address the “legacy of traffic problems in the Huncoat and Clayton Lee Moors area” and as part of Lancashire’s proposals to develop a strategic network of waste management facilities across the County. However, it is clear to us that the primary purpose is to deal with a strategic transport issue rather strategic waste issue. By providing the link road a greater volume of waste can be moved to the site and at a greater frequency. The location of the ELWTP on the route of the WHLR is therefore logical, but it is not the reason for it.
3.16 The main implication of completing the entire link road would be its use by HGV traffic accessing Whinney Hill Quarry and Landfill Site. Indeed, the current access arrangements are inadequate, meaning that the Global Scheme for the landfilling and restoration of the Whinney Hill Quarry and Landfill Site (HBC ref. 11/03/0017, dated 11 January 2011) is controlled by a whole series of highways conditions limiting both the number and hours of HGV movements. Indeed, when the WHLR is constructed a condition requires all HGV traffic to turn left out of the Landfill site and use the link road therefore removing all limitations on traffic and dealing with the legacy of local traffic issues.

3.17 It is quite clear that the entire link road is required to provide appropriate highways access to the Whinney Hill Quarry and Landfill Site which will in turn enable it to be used to its full potential. The fact that the ELWTP is unlikely to go ahead therefore has little or no bearing on the underlying need for the WHLR. Indeed, permission exists for the Landfill use until February 2045 (which was approved in January 2011) and the demand for the site will increase by 2016 as the other two strategic waste sites (Jameson Road at Thornton and Clayton Hall at Leyland) expire in 2016 (expected) – 2018 (planning permission expires). This will place an even greater reliance on the Whinney Hill Quarry and Landfill Site given it is the only landfill site in Lancashire with both planning permission and significant remaining capacity.

3.18 The WHLR is therefore absolutely critical if the Global Scheme is to succeed and the environmental impact of HGV traffic through Huncoat and Clayton le Moors mitigated. Without the WHLR the value of the Landfill to both the strategic authority and waste industry is arguably very limited. The CS should therefore recognise that it is the Whinney Hill Quarry and Landfill Site that is utterly reliant on the delivery of the road in terms of the future success of waste management in Lancashire.
v. What are the implications of the latest position on the Waste Technology Park and Whinney Hill Link Road, and will these have any implications for the deliverability of the proposal, particularly in terms of access, viability, funding and possible land contamination?

3.19 As we have stated, it is extremely unlikely that the ELWTP will now come forward on the former Huncoat Power Station site. There is no need for this scale of facility, there is no planning permission and the ELWTP CPO failed. This position does not affect the Strategic Employment Land allocation at Huncoat and reference to the WTP should simply be removed from the policy.

3.19 Planning permission for the WHLR exists and is not due to expire until 2014. Whilst the compulsory purchase of only the second phase has been confirmed, the WHLR route is to be protected through Lancashire’s Minerals & Waste Site Allocations DPD and is supported in Policy A9 of the CS subject to certain criteria regarding landscaping and highways matters being met. The principal purpose of the road is to provide an appropriate link from Whinney Hill Quarry and Landfill Site to the strategic road network alleviating a legacy of traffic problems in the Huncoat and Clayton Lee Moors area. Funding exists for the WHLR and ELWTP and we have seen no evidence which demonstrates that this is no longer the case. Given the strategic transport issue the WHLR would resolve, it is entirely appropriate for the strategic authority to fund it in a similar vein to which the strategic authority funded the extant planning permission for the road.

3.20 The strategic authority and the waste industry are the principal beneficiaries of the WHLR. The fact that phase 1 of the road will also create improved access and therefore an opportunity to develop Omega Atlantic’s land and that of adjoining landowners is merely a spin-off benefit; it is not the primary purpose of the link road.

3.21 The CS should expressly acknowledge this point, particularly in relation to who is expected to contribute to the funding of the WHLR. For example, the Council’s Schedule of Further Proposed Changes insert text to the effect only developers will be expected to contribute to the construction of phase one of the link road (page 76-77, para 5.42). It goes on to suggest that second phase could be funded from a ‘variety of sources including Community Infrastructure Levy, the minerals and waste industry or other sources of public funding in the future’ (page 77, para 5.45).
3.22 The funding text in respect of phase one of the WHLR should also refer to the Community Infrastructure Levy, the minerals and waste industry or other sources of public funding. As a matter of principle, the owners of the land that will be unlocked up the first phase of the WHLR should not have to incur all of the construction cost when the strategic authority and the waste industry are the principal beneficiaries.

b) **Suggested Changes to the Core Strategy**

3.23 In order to ensure that the Core Strategy is consistent with national policy and effective and, therefore, sound, Omega Atlantic suggests that the following changes should be made (changes have been made in reference to the Submission Document rather than the Schedule of Further Proposed Changes):

- **Policy A8** should be revised to ensure that it has sufficient flexibility to respond to rapid shifts in demand or other economic changes; to ensure that its long term protection for strict employment does not prejudice the site’s ability to contribute towards growth and jobs; therefore maximising the chances of delivering economically viable development which achieves suitable access to the strategic road network. Reference to the Waste Technology Park / built waste management facility should also be deleted. Omega Atlantic therefore suggest that Policy A8 is reworded as follows:

  “The development of a strategic employment site for a Waste Technology Park and other employment uses (including but not limited to B1, B2 and B8 uses) will be supported subject to suitable access to the strategic road network provided the site is adequately connected by a new road to the primary road and motorway network, it is accessible by public transport, walking and cycling, and includes high quality landscaping and natural environment enhancement. Subject to satisfying other policies in the Plan, some form of enabling development will also be supported to ensure the deliverability of an economically viable development.”

- The supporting text to Policy A8 (paragraphs 5.41 and 5.42) should be expanded to refer to the significance of the Huncoat site to Hyndburn and the importance of delivering an economically viable development which may result in the need for enabling development.
Policy A9 should be revised to reflect the main purpose of the WHLR, namely to link the Whinney Hill Quarry and Landfill Site to the strategic road network. Omega Atlantic therefore suggest that Policy A8 is reworded as follows:

“The development of a new road connecting the A56 at the Burnley Road junction with the Huncoat Strategic Employment Site and Bolton Avenue Whinney Hill Quarry and Landfill Site will be supported subject to the following criteria being met:

a) High quality landscaping being provided along its length which will secure conservation and enhancement of the wider natural environment;

b) The implementation of measures that would prohibit heavy goods vehicles using Higbergate Road, Lowergate Road, the stretch of Bolton Avenue south of the Railway Bridge and Whinney Hill Road at Whalley Road, and;

c) The implementation of measures that would prevent heavy goods vehicles using the Stretch of Whinney Hill Road”

The supporting text to Policy A9 (paragraphs 5.44 and 5.45) should be amended to remove reference to the Waste Technology Park; expressly acknowledge the main purpose of the WHLR as providing the Whinney Hill Quarry and Landfill Site with access to the strategic road network; that, as a spin-off benefit, the WHLR would in turn provide access to the Housing site (A7) and Strategic Employment Site (A8); and that both phases of the road should include funding from the Community Infrastructure Levy, the minerals and waste industry and/or other sources of public funding in the future.

The CS generally needs to be updated to reflect the actual outcome of the CPO Public Inquiry and the fact that the planning permission for the ELWTP has expired.

Appendix 9 (The delivery of the Strategy) should be updated to reflect these suggested changes.