

2012

Planning Statement

in support of planning application for a Hydro
Power Installation and Fish Pass at
Huckworthy Mill

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1 Summary

1.1 CGP (South West) Ltd is seeking planning permission for the construction of a hydro-electric scheme and a new fish pass at Huckworthy Mill, Sampford Spiney, Yelverton. The proposed development comprises:

- 1.1.1 A single storey generator building approximately 4.3 metres x 4.3 metres built of stone with a slate roof, housing the turbine to generate electricity using a flow of water from the River Walkham;
- 1.1.2 Underground power cables to connect the generator building to the electricity grid;
- 1.1.3 Restoration and re-use of the existing leat;
- 1.1.4 A fish pass comprising three concrete pools, ranging from 3 metres x 2.7 metres to 3 metres x 2.8 metres, at the existing weir; restoration of part of the weir.

1.2 The proposed development will:

- 1.2.1 Generate up to 100kW of electricity for supply to the local electricity grid (equivalent to the demands of approximately 105 average households: Carbon Trust);
- 1.2.2 Make a material contribution to the DNPA's Management Plan, which seeks the generation of 1,500kW of new renewable energy from hydro-electric schemes;
- 1.2.3 Contribute to regional, national and international targets for the generation of electricity from renewable sources in order to reduce carbon emissions and, crucially, contribute to diversity and security of electricity supplies;
- 1.2.4 Secure the conservation and enhancement of natural beauty, wildlife and cultural heritage assets within the National Park through securing the restoration, retention and future of assets that form part of the landscape, nature conservation and cultural heritage features including the leat, the sluice gate and Huckworthy Mill.
- 1.2.5 Secure the future of the weir, which is in urgent need of essential repairs for on-going stability, including re-instatement of missing boulder buttressing essential for on-going structural stability;
- 1.2.6 Improve the passage of migrating fish (salmon and sea trout) to and from the Sampford Spiney Site of Special Scientific Interest (SSSI) by providing a new fish-pass that has been approved by the Environment Agency's National Fish Pass Panel. The existing fish-pass does not meet the required standards and so the provision of a new fish pass will provide an important habitat linkage, enhancing habitat provision;
- 1.2.7 Provide opportunity for new habitat by re-opening the leat and creating a slower moving water body;
- 1.2.8 Demonstrate the DNPA commitment to the 2030 National Parks Vision of sustainable development in action; making a positive contribution towards the National Park's transformation towards a low carbon society, sustainable living and renewable energy generation. The proposed development offers an opportunity to create resilience and enable adaption, positively supporting the maintenance, restoration and expansion of wildlife, species and habitats and making a contribution towards the tackling of climate change and living within environmental limits.

- 1.3 The construction of a hydro-electric scheme including a new fish pass using water from the River Walkham is "development" for the purposes of the Town & Country Planning Act 1990. However, the nature and scale of the development is not such that it constitutes development for which an environmental impact assessment process is required to be undertaken under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011. Notwithstanding this, a number of technical assessment reports have been prepared and submitted in support of the planning application.
- 1.4 The planning application is accompanied by the following reports:
- 1.4.1 Design & Access Statement (August 2012)
 - 1.4.2 Fisheries impact Assessment (August 2010). The Redd count undertaken by Fishtek in early 2012 as part of the Environment Agency abstraction licensing application reported no material change in fish activity.
 - 1.4.3 Structural Engineering Report (August 2012)
 - 1.4.4 Archaeology and Documentary History Report (August 2012)
 - 1.4.5 Dormouse Method Statement (February 2012)
- 1.5 Section 38(6) of the Planning & Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 provide that where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.
- 1.6 The correct approach to be taken in the determination of a planning application is set out in the speech of Lord Clyde in the case of *City of Edinburgh Council v Secretary of State for Scotland & Others* 1997 S.C.L.R. 1112. Lord Clyde recorded that that it was:
- "necessary for the decision-maker to consider the Development Plan, identify any provisions in it which are relevant to the question before him and make a proper interpretation of them. His decision will be open to challenge if he fails to have regard to a policy in the Development Plan which is relevant to the application or fails properly to interpret it. He will have to consider whether the development proposed in the application before him does or does not accord with the Development Plan. There may be some points in the plan which support the proposal but there may be some considerations pointing in the opposite direction. He will require to assess all of these and then decide whether, in light of the whole plan, the proposal does or does not accord with it. He will also have to identify all other material considerations which are relevant to the application and to which he should have regard. He will then have to note which of them support the application and which do not, and he will have to assess the weight to be given to all of these considerations. He will have to decide whether there are considerations of such weight as to indicate that the Development Plan should not be accorded the priority which the Statute has given to it. And, having weighed these considerations and determining these matters, he will require to form his opinion on the disposal of the application"*.
- 1.7 This Planning Statement follows the substance of the approach advised by Lord Clyde, save that a description of significant material considerations in the form of international, National and regional energy and climate change policy is set out first in order to provide the context for the renewable energy and other relevant provisions in the development plan. The Planning Statement:
- 1.7.1 Describes the proposed development by reference to the supporting documentation, the relevant planning history and the consultations undertaken;
 - 1.7.2 Outlines international and European policy on renewable energy;

- 1.7.3 Considers National policy on climate change and energy and the English National Parks and Boards UK Vision (Circular 2010)the recently issued (March 2012) National Planning Policy Framework (NPPF)
- 1.7.4 Identifies the relevant provisions of the development plan
- 1.7.5 Assesses the proposed development in terms of development plan policy and other material considerations
- 1.7.6 Reaches a conclusion on the acceptability of the proposed development in terms of Section 38(6) of the 2004 Act and Section 70(2) of the 1990 Act.

2 The Proposed Development, Planning History & Consultations

- 2.1 By application dated 22 December 2010 CGP Ltd sought planning permission for the *"Construction of a hydro scheme, using water from the River Walkham - utilising the existing leat"*. The application was registered under reference 027/11.
- 2.2 The hydro scheme is also required to be licensed by the Environment Agency. During the course of consultations in respect of the Abstraction Licence the Environment Agency advised that a new fish pass should be constructed as a condition precedent to the operation of the hydro-electric scheme to ensure that fish passage over the weir is not compromised. Accordingly, the applicant commissioned the design of a fish-pass. That design has been approved by the Environment Agency National Fish Pass Panel. A planning application for the "installation of a new fish-pass on existing weir on the River Walkham, Huckworthy Mill, Stamford Spiney" was submitted to the DNPA dated 16th December 2011 and registered under reference 00645/11.
- 2.3 Consultations undertaken and/or representations received from statutory and other consultees and third parties in respect of both applications are summarised in the table below:

Consultee	Response	Applicant Response
Environment Agency	No objection to the hydropower scheme subject to the installation of the fish-pass, which has been approved by the EA National Fish Pass Panel	Fish-pass designed in consultation with Agency requirements. Approved by Environment Agency
Devon County Council	No objection	
DNP Ecology & Wildlife Conservation Section	No objection subject to proposed planning conditions on timing of works and other mitigation measures	Planning conditions accepted
West Devon Borough Council	No objection	
South West Water	No objection	
DNP Archaeology	No objection to hydro scheme.	The assumption regarding

	<p>Restoration of least a positive enhancement. Sluice gate should remain in situ.</p> <p>Concerns regarding the weir, "established" to date from late 16th Century and so a Heritage Asset.</p> <p>Detrimental visual impact of fish pass. Maybe appropriate to consider more sympathetic proposal. If approved, a photographic record should be made prior to commencement of construction.</p>	<p>the status of the weir is not correct. The Archaeology and Documentary History Report (August 2012) undertaken by Cynthia Gaskell Brown considers all available evidence and concludes that</p> <p>While the site itself dates from the late 16th century and some of the loose boulders may originate from that period, the Weir is substantially a mix of 19th and 20th century repairs and alterations in an unstable condition with erosion rapidly removing boulders from beneath the capping.</p> <p>The sluice gate posts will remain in situ and a new sluice mechanism installed.</p>
Natural England	No objection subject to working method statement being produced to ensure mitigation measures for protected species.	Planning conditions accepted
Burrator Parish Council	No objection but requested DNPA resolved land ownership issues, access road suitability and no mine works in area.	The works required to provide the necessary vehicular access have been undertaken by Maristow Estate. The applicant has confirmed that it has control over the land necessary to carry out the proposed development. A mining survey has informed the project design to ensure avoidance of known mine workings. Standard mitigation measures will

		apply in the event of unknown mine workings arising.
DNP Tree & Landscape Officer	No objection. Development should be undertaken in accordance with submitted construction method statement	Planning conditions accepted
Third party objectors	20 objections on grounds the fish pass design "would destroy the beautiful and ancient weir"; inaccurate plans; applicant would need access to land outside its control to construct the fish pass; how will it be maintained; fish eco-system threatened;	The Weir is substantially a 19 th and 20 th Century structure, not the ancient structure believed by objectors. The plans have been verified. The applicant is satisfied that it has control over all relevant land. Protection of the fish eco-system is the purpose of the fish pass – requested by the Environment Agency and supported by Natural England.
Third party supporters	2 supporters: fish pass will not be seen by public nor from a dwelling-house; similar fish passes near Horrabridge; fish migration will be assisted; historic leat will be lost unless restored.	

2.4 In the reports prepared by the DNPA Planning Officer for the Site Inspection undertaken by the DNPA Development Management Committee on 4 May 2012 the Planning Officer recommended approval of both planning applications subject to conditions. The Reports stated that "*The development is consistent with the provisions of the Development plan and Government advice (and material considerations do not indicate otherwise)*".

2.5 Notwithstanding the Planning Officer's advice, the members resolved to refuse planning permission for the installation of the fish-pass for two reasons:

Reason 1 for Refusal: The proposed fish pass by reason of its design would have a detrimental impact on the character and appearance of this part of the National Park, contrary to Policy CO2 of the Devon Structure Plan, the Dartmoor National Park Core Strategy in particular policies COR1, COR3 and COR4 policies DMD1 and DMD6 of the Dartmoor National Park Development Management and Delivery Development Plan Document and to the advice contained in the English National Parks and the Broads UK Government Vision and Circular 2010 and the National Planning Policy Framework 2012.

Reason 2 for Refusal: The proposal would result in the substantial demolition of a heritage asset. In the absence of any overriding justification the proposal is considered to be contrary to policies CO2 and CO8 of the Devon Structure Plan, the Dartmoor National Park Core Strategy in particular policies COR1, COR3, COR4, COR6 and COR7, policies DMD1, DMD6 and DMD11 of the Dartmoor National Park Development Management and Delivery Development Plan Document and to the advice contained in the English National Parks and the Broads UK Government Vision and Circular 2010 and the National Planning Policy Framework 2012.

- 2.6 As the Hydro-eclectic scheme required the provision of the fish pass, planning permission for that development was refused on the ground that in the absence of a fish pass the proposed hydro-electric scheme would have the potential to have a detrimental impact on aquatic ecology, particularly migratory fish.
- 2.7 Whilst these re-applications are within the time period following the refusals where the Authority could decline to register them, it should be noted that this is a discretionary power. The power to decline to register is discretionary and the Secretary of State advises that it should be exercised "*only where [an authority believes] that the applicant is intending to exert pressure by submitting repeated similar applications.*" Furthermore, the power to decline to register the application under Section 70A of the 1990 Act cannot be exercised where there has been a significant change in relevant considerations. In this case, there is a significant change in relevant considerations, namely in the new evidence that has come forward concerning the history of the Weir. As this goes to the heart of the reasons for refusal of the fish pass, it is evidence concerning a material consideration that is a relevant consideration in the determination of the application. The additional information now being supplied by the applicant goes to the very heart of how the effects of the proposal should be evaluated in policy terms. As such, this is a genuine re-application and if there is any doubt on that point then, as urged by the Secretary of State (Circular 14/91), the benefit of that doubt should be given to the applicant.
- 2.7 Furthermore, the applicant notes that the reasons for refusal failed to undertake the balancing exercise that is required to be struck between the need for renewable energy (the fish pass is an integral part of the hydro development) – recognised in Structure Plan policy CO12 and the National Planning Policy Framework – and the environmental effects.
- 3 International and European statements on renewable energy
- 3.1 The positive policy environment for renewable energy in the UK is largely motivated by the UK's commitment to international agreements on reductions in the emissions of greenhouse gases. Whilst this has undoubtedly been the primary motivation there are a number of other important benefits of renewable energy, which have been recognized by policy makers. These include the reduction in the "mining" of valuable and scarce global fossil fuel supplies, curbing the emission of other trans-boundary pollutants such as nitrous oxides and sulphur dioxide, greater self-sufficiency in energy supply (increasingly a concern), and advantages in decentralized embedded generation including reduction in transmission losses and power supply failures. While these other advantages are important and may have been the initial motivation for the funding of renewable energy research in the 1970s and 1980s, rising international concern over the phenomenon of climate change has dominated renewable energy policy over the last decade.
- 3.2 The United Nations took up the issue of climate change in 1988 and adopted a resolution on the "Protection of global climate for present and future generations of mankind". When in 1990 the IPCC issued its First Assessment Report, confirming that climate change was indeed a threat and calling for a global treaty to address the problem, the UN General Assembly formally launched negotiations on a framework convention on climate change and established an intergovernmental Negotiating Committee (INC) to conduct these negotiations. On 9 May 1992 the INC adopted the United Nations Framework Convention on Climate Change. The Convention was opened for signature at the "Earth Summit" in Brazil on 4 June 1992 and came into force on 21 March 1994. The ultimate long-term objective of the Convention is to stabilise atmospheric concentrations of greenhouse gases at so-called "safe"

levels. The Convention includes a series of review mechanisms to ensure that its commitments could be tightened in the future. The first of these, The Kyoto Protocol was adopted on 11 December 1997. The Kyoto Protocol commits Annex I parties to individual, legally-binding targets to limit or reduce their greenhouse gas emissions, adding up to a total cut of at least 5% from 1990 levels in the "commitment period" 2008-2012. The individual targets range from 8% cut for the EU to a 10% increase for Iceland.

- 3.3 The Kyoto Protocol came into force on 16 February 2005. The European Community agreed jointly to undertake an 8% reduction at Kyoto, with the UK agreeing to take on a reduction target at 12.5%. At the UN climate change conference in Bali on 15 December 2007, agreement was reached to start formal negotiations on a climate change regime for post-2012 and a "Bali Roadmap" that sets out an agenda for the negotiations. The deadline for these negotiations was set for end-2009 to allow time for governments to ratify and implement future climate change agreement before the Kyoto Protocol's first commitment period ends by the end of 2012. The decision explicitly acknowledged the findings of the recent scientific assessment by the UN Intergovernmental Panel on Climate Change and recognised that deep cuts in global emissions of greenhouse gases will be required to prevent global warming from reaching dangerous levels.
- 3.4 The UNCCC Copenhagen Climate Change Summit took place in December 2009, with the purpose of agreeing the plan set in motion at the Bali Conference. The overall objective was to have an effective successor to the Kyoto Protocol in place by 2012. Despite no overall agreement for a legally binding successor to Kyoto being reached, 61 countries, including the EU, submitted mitigation pledges to the UN against a soft deadline agreed under the Copenhagen Accord. The Accord records that climate change is "*one of the greatest challenges of our time*" (paragraph 1) and states that long term co-operative actions should be taken to keep global temperature increases to below 2 degrees Celsius.
- 3.5 In Cancun in December 2010 the Conference of the parties (COP) put the UNFCCC process back on track and identified it as the most likely vehicle for the delivery of a comprehensive legally binding global agreement to tackle climate change.
- 3.6 The primary focus of the UNFCCC Conference held in Durban in 2011 was to secure a global climate agreement as the Kyoto Protocol's first commitment period (2008–2012) was about to end. The agreement reached includes a decision by Parties to adopt a universal legal agreement on climate change by 2015 which will take effect in 2020. The agreement, referred to as the "Durban Platform", is notable in that for the first time it includes developing countries such as China and India, as well as the US which refused to ratify the Kyoto Protocol. http://en.wikipedia.org/wiki/2011_United_Nations_Climate_Change_Conference_-_cite_note-BBC_Black-5#cite_note-BBC_Black-5 However, the total of official emission reduction pledges from all countries so far amounts to only around 60 percent of what is needed to limit the temperature increase to 2 degrees Celsius above pre-Industrial levels. Governments expressed grave concern at this gap. As part of the Durban Platform for Enhanced Action, they launched a work programme to consider ways to urgently increase mitigation ambition.
- 3.7 More recently, the United Nations Conference on Sustainable Development was held in Brazil in June 2012 (Rio +20). A non-binding paper - '*The Future We Want*' - was agreed by the heads of state for the 192 participating countries. In relation to climate change, the paper states that "*we urge all parties to fully implement their commitments under the United Nations Framework Convention on Climate Change*" (para 17). It states that the member countries "*recognize that improving energy efficiency, increasing the share of renewable energy and cleaner and energy-efficient technologies are important for sustainable development, including in addressing climate change*" (para 128). It urges parties to the UNFCCC and Kyoto Protocol to fully implement their commitments.
- 3.8 The EU Renewable Energy Directive commits Member States to the setting of national targets for consumption of energy from renewable sources in terms of a proportion of total electricity consumption. The Directive gives indicative first targets

for each member state. **The Directive aims to promote electricity from renewable energy sources through:**

- 3.8.1 quantified national targets for consumption of electricity from renewable sources of energy;
 - 3.8.2 national support schemes plus, if necessary, a harmonised support system;
 - 3.8.3 simplification of national administrative procedures for authorisation;
 - 3.8.4 guaranteed access to transmission and distribution of electricity from renewable energy.
- 3.9 In December 2008, the Heads of State and Governments of the 27 Member States of the EU endorsed the package of energy and climate proposals put forward to their spring summit in Brussels on 8-9 March 2007. The key elements of the EU energy and climate package are:
- 3.9.1 developed countries to reduce their collective greenhouse gas emissions to 30% below 1990 levels by 2020 as part of a new global agreement to combat climate change;
 - 3.9.2 EU commits to cut its emissions by at least 20% of 1990 levels by 2020 without waiting for global agreement;
 - 3.9.3 reduce EU energy consumption by 20% by 2020 through greater energy efficiency, e.g. of domestic appliances, cars and in buildings;
 - 3.9.4 also by 2020, increase renewable sources' share of EU energy consumption to 20% and bio-fuels' share of transport fuels to 10%;
 - 3.9.5 seek international agreement on energy efficiency;
 - 3.9.6 promote environmentally safe use of carbon capture and storage.
- 3.10 The objective of this package of measures, and others, is to secure the stabilisation of global emissions of greenhouse gases by around 2020 and secure a reduction by up to 50% of 1990 levels by 2050 in order to have a fair chance of keeping the average temperature rise to no more than 2 degrees Centigrade: *" This ambitious goal is both technically feasible and economically affordable if major emitters act urgently. The benefits of doing so will far outweigh the limited economic costs. "*
- 3.11 The UK's share of the EU 2020 renewable energy target of 20% consumption is a legally binding national target of 15% of UK total energy consumption by 2020, which reflects the UK's low starting base (Renewables were judged to have met just 1.3 per cent of the UK's total energy consumption in 2005). The UK's National Renewable Energy Plan, published in July 2010 and submitted to the European Commission under the Renewable Energy Directive is considered below. In response to the Copenhagen Accord, the EU reiterated its conditional offer to move to a 30% reduction by 2020 compared to 1990 levels, provided that other developed countries committed themselves to comparable emission reductions and that developing countries contribute adequately according to their responsibilities and respective capabilities.
- 3.12 On 8 March 2011 the EC published a Roadmap for transforming the EU into a competitive low carbon economy by 2050. The document sets out the cost-efficient trajectory for reducing emissions by 2050, consistent with the EU's long terms goal of reducing emissions by 80-95 percent by 2050 which was reaffirmed by EU leaders in February 2012. The Commission's Roadmap demonstrates both that the 20% target is not ambitious enough to achieve the 2050 goal and that the EU already has the tools and policies to cut emissions.

4 National policy framework, planning and National Parks for renewable energy

4.1 The National policy framework for renewable energy development, the operation of the planning system and vision for National Parks is a material consideration of great weight in the determination of this planning application. Within this part of the Planning Statement the key relevant provisions within these three policy areas are identified and their relevance to the proposed development considered.

National Renewable Energy Policy

4.2 Much of the direction of the UK policy on Renewables has been guided by its commitments to International and European climate change instruments. The UK Government warns in its Climate Change Programme that: "*Climate change brings with it huge costs to the economy, environment and society*". However, in more recent years issues relating to energy security and diversity of supply have become far more prominent. Faced with issues concerning the adequacy and long gravity of global supplies of fossil fuels and vastly increased global demand driving prices up, successive Governments have become increasingly concerned to create domestic electricity generation markets that will deliver new, secure, domestic supplies of renewable energy.

4.3 In 1998 the UK Government set itself a domestic target for reduction of carbon dioxide emissions beyond its commitment to the Framework Convention on Climate Change. The UK Government's new domestic target was to reduce carbon dioxide emissions to 20% below 1990 levels by 2010.

4.4 In November 2000 the Government published the UK Climate Change Programme, which outlines the target areas and policies through which it aims to achieve this domestic target. The Programme recognised that the domestic goal for a 20% reduction in carbon dioxide emissions by 2010 over 1990 levels was only "*a first stage towards what will be needed in the longer term*". In its Energy White Paper "Our Energy Future – Creating a Low Carbon Economy (February 2003) the Government accepted the recommendation that the UK should put itself on a path towards a reduction in carbon dioxide emissions of some 60% from current levels by about 2050 with real progress by 2020.

4.5 The 2003 Energy Review by the Performance and Innovation Unit recommended a further target of 20% of UK electricity demand coming from renewable sources by 2020.

4.6 The Government's report on the Energy Review – "The Energy Challenge" was released on 11 July 2006 and stated that "Renewable energy is an integral part of the Government's strategy for tackling climate change. We promote a range of measures to promote its growth – taken together we believe we can achieve 20% of our electricity coming from renewable sources by 2020".

4.7 To respond to the challenges outlined in the 2006 Energy Review, the UK Government published a new White Paper in May 2007. This included a 'Renewables Statement of Need', which reiterates previous commitments relating to the importance of renewable generation and the supporting infrastructure, and reconfirms the UK Government policy context for planning and consenting decisions on renewable generation projects. Proposals for removing perceived barriers to meeting the renewables targets were also highlighted, including improved planning inquiry procedures, a reform of the planning system and facilitating connection of renewables projects to the transmission network.

4.8 Addressing the Government's Low Carbon Economy Summit on 26 June 2008, the Prime Minister outlined a new strategy to reduce the UK's demand for energy and to develop and deploy more renewable technologies. He announced that an increase in the UK's renewable energy target to encourage 30-35 per cent of electricity to come from renewable sources by 2020:

- 4.9 "Achieving this target will mean new kinds of consumer behaviour and lifestyles, and creativity, innovation and entrepreneurialism throughout the economy and society.. it is an immense challenge. And all of us - government, business, civil society and individuals - have a part to play."
- 4.10 The Department of Business, Enterprise and Regulatory Reform published the UK Renewable Energy Strategy: Consultation Document in June 2008, which sought views on how to increase the use of renewable energy in the UK, as part of the UK's overall strategy for tackling climate change and to meet its share of the EU target to source 20% of the EU's energy from renewable sources by 2020. Responses to the consultation in guided productions of the UK Renewable Energy Strategy.
- 4.11 The Climate Change Act, the first of its kind in the world, received Royal Assent on 26 November 2008. The Act sets out a framework to put Britain on the path to become a low-carbon economy, with clear, legally binding targets to reduce carbon dioxide emissions by at least 80 per cent by 2050, and at least 26 per cent by 2020, against 1990 levels.
- 4.12 In addition to as setting clear targets, the Act provides a pathway to achieve those reductions through a system of five-year carbon budgets set 15 years ahead, which would give investors and policy-makers certainty and direction.
- 4.13 As well as advising on carbon budgets, the Committee on Climate Change, is charged with investigating and reporting each year on progress towards the 2050 target. It has recently been requested by the Government to conduct a review into how aviation emissions can be limited to below 2005 levels in 2050.
- 4.14 Key provisions include:
- 4.14.1 Legally-binding targets to cut CO₂ emissions by at least 60% by 2050 and 26 to 32% by 2020.
 - 4.14.2 A new system of legally binding five year "carbon budgets", set at least 15 years ahead, to provide clarity on the UK's optimum pathway towards its key targets and increase the confidence and certainty for business planning and investment in technology needed to move towards a low-carbon economy.
 - 4.14.3 A new statutory body, the Committee on Climate Change, to provide independent expert advice and guidance to Government on achieving its targets and staying within its carbon budgets.
 - 4.14.4 A new system of annual open and transparent reporting to Parliament. The Committee on Climate Change will provide an independent progress report to which the Government must respond. This will ensure the Government is held to account every year on its progress towards each five year carbon budget and the 2020 and 2050 targets.
 - 4.14.5 A requirement for Government to report at least every five years on current and predicted impacts of climate change and on its proposals and policy for adapting to climate change.
 - 4.14.6 Enabling powers to introduce new trading schemes through secondary legislation, similar to the Carbon Reduction Commitment, a new cap and trade scheme for large organizations such as local authorities, supermarkets and other large retailers, and government departments.
- 4.15 By an Order dated 31 May 2009 (Climate Change Act 2008 (2020 Target, Credit Limit and Definitions) Order 2009) the UK increased its commitment on carbon reduction from 20% by 2020 to 34% by 2020 against 1990 levels.
- 4.16 The Coalition Programme for Government (May 2010) stated the Government's belief that climate change is one of the gravest threats facing the country. It included commitment to reducing harmful emissions, increasing targets for energy from

renewable sources, establishing a full system of feed-in tariffs and securing energy supplies.

- 4.17 The National Renewable Energy Action Plan for the United Kingdom was published (July 2010) under Article 4 of the Renewable Energy Directive 2009/28/EC. This policy document was published after the Coalition Government came to power and included statements of new Government policy. It is a material consideration of considerable weight. Of particular note:

4.17.1 the UK needs to radically increase its use of renewable energy

4.17.2 "our drive to increase the proportion of energy we obtain from renewable sources will not only increase the security of energy supplies in the UK, it will also provide opportunities for investment in new industries and new technologies. The UK Government will help business development in this area to put the UK at the forefront of new renewable technologies and skills".

4.17.3 "the UK Government believe that climate change is one of the gravest threats we face, and that urgent action at home and abroad is required...the development of renewable energy sources, alongside nuclear power and the development of carbon capture and storage, will also enable the UK to play its full part in international efforts to reduce the production of harmful greenhouse gases".

4.17.4 "this National Renewable Energy Action Plan provides details on the set of measures that would enable the UK to meet its 2020 target. But we want to go a lot further. We want to secure our energy supplies through 2020 and beyond and provide a sound framework for business to develop in the new industries, providing jobs and cutting harmful greenhouse gases. The Coalition programme for Government sets out a range of proposals to ensure that we go as far as we can in exploiting the UKs renewable energy resources".

- 4.18 In September 2010 the Committee on Climate Change, the independent body established under the Climate Change Act 2008 to advise the UK Government on setting and meeting carbon budgets and on preparing for the impacts of climate change, advised the Secretary of State for Energy and Climate Change on the level of ambition for renewables for 2020 and beyond, and whether there is scope to increase the current target, taking into account cost (including those on a consumer), technical potential, environmental impact (based on available evidence) and practical delivery. The Committee advised that the current renewable energy target for 2020, and the share of ambition across the sectors (electricity, heat and transport) is broadly desirable in that it makes an appropriate contribution to meeting carbon budgets to 2020 and beyond. However, the target has significant delivery risks and, therefore, the focus should be on implementation with a number of key risks to be addressed by the Government now in order that the share of renewable energy can be increased rapidly: *"Ensuring that more of the energy we use is from renewable sources is vital for meeting carbon budgets. The current target is desirable, but there are significant risks around achieving it. We do not see any merit in raising this target further. Instead, Government should focus its efforts on meeting the current target, in particular by providing the right incentives to encourage investment in renewable energy projects in the UK"*.

- 4.19 The first Annual Energy Statement was delivered to Parliament on 27 June 2010 and the second on 23 November 2011. The Annual Energy Statements, a manifesto commitment of the Coalition Government, have four principal aims:

4.19.1 saving energy through the Green deal and supporting vulnerable consumers;

4.19.2 delivering secure energy on the way to a low carbon energy future;

4.19.3 managing our energy legacy responsibly and cost-effectively; and

4.19.4 driving ambitious action on climate change at home and abroad.

In setting the strategic direction of energy policy and guiding investment, the statements set out the full secure and low carbon energy context, covering climate change and energy efficiency as well as supply-side issues, international security and the liabilities. The accompanying “2050 Pathways Analysis” Report presents a framework through which to consider some of the choices and trade-offs to be made in the UK by 2050. The Pathway Analysis covers all parts of the economy and all greenhouse gases emissions released in the UK and will be revised and updated regularly to provide an evidence base for decision-making.

- 4.20 On 14 March 2011 the Promotion of the Use of Energy from Renewable Sources Regulations came into force. The Regulations confirm the duty of the Secretary of State to ensure that the renewables share of energy generation in 2020 is at least 15%. This is to ensure that the UK complies with its legally binding obligations under the EC Renewable Energy Directive.
- 4.21 In May 2011 the Committee on Climate Change published its Renewable Energy Review. The Review forecasts a major role for renewables (alongside nuclear and Carbon Capture and Storage) in decarbonising power, heat and transport. Previously, in September 2010, the Chief Executive of the Committee on Climate Change, David Kennedy, said that
- 4.22 On 27 July 2011 the UK Government published the UK Renewable Energy Roadmap, which sets out a comprehensive action plan to accelerate the UK’s deployment and use of renewable energy, to put the UK on the path to achieve the 2020 target, while driving down the cost of renewable energy over time.
- 4.23 The Department of Energy and Climate Change (DECC) published the Electricity Market Reform White Paper entitled ‘Planning our Electric Future; a White Paper for secure, affordable and low carbon-electricity’¹ in July 2011. The document sets out a package of reforms to ensure a flexible, responsive, secure and low carbon electricity network that will meet the increasing demand as a result from the electrification of transport and heating systems.
- 4.24 In December 2011 the Government published The Carbon Plan to bring together the Government’s strategy to curb greenhouse gas emissions and deliver climate change targets. In terms of low carbon electricity the plan states that electricity demand may rise by between 30% and 60% to 2050 (paragraph 44). Over the next decade emissions will require to be reduced through the use of renewable sources for electricity generation capitalising on the fact that a number of coal and nuclear power stations are set to close in the early 2020s. Modelling suggests that around 40-70 GW of new low carbon electricity capacity will need to be built by 2030 (paragraph 2.150), rising to 100GW by 2050 (paragraph 2.153). To achieve this target 2.5 GW of new low carbon capacity will require to be built each year. Cost is likely to determine the deployment levels split between nuclear, fossil fuel with CCS and onshore and offshore wind.
- 4.25 In May 2012, the Secretary of State for Energy and Climate Change announced publication of the draft Energy Bill. This Bill will establish a legislative framework for delivering secure, affordable and low carbon energy. The Energy and Climate Change Committee conducted an inquiry to scrutinize the draft Bill. Their report was published on 23 July. The Government’s response will be published alongside the revised Bill when it is introduction to Parliament, which is expected to be in the Autumn.
- 4.26 Within the South West, the draft Regional Spatial Strategy established targets for renewable energy generation based on evidence –based assessments of resource undertaken in 2004 and 2005. Whilst the Coalition Government is in the process of completing the legal and planning processes necessary to abolish this layer of policy

¹ Electricity Market Reform (EMR) White Paper 2011, Planning our future: a white paper for secure, affordable and low carbon electricity, Department of Energy and Climate Change (DECC), 12 July 2011.

making, the empirical basis of the reports on which the targets were derived remains robust. In 2010 the Revision report undertaken for the former Government of the South West set out a target for Devon to generate 151 MW of renewable electricity by 2010 (less than 33MW had been installed by 2010). If the 15% national target is driven down to a County level then Devon would need to generate some 851MW of energy from renewable sources by 2020 (5 times the 2010 target, which itself has not been met)

- 4.27 The University of Exeter published A Review of Renewable Energy Resource Assessment and Targets for Devon in March 2011. This recorded the Revision 2010 target for Devon to generate 5MW of hydro power by 2010 and the Environment Agency's estimated level of constrained hydro resource in 2010 at 8MW. The University of Exeter considered that constraints were likely to see the delivery of perhaps 0.5MW to 1 MW in Devon: very significantly lower than the levels required.
- 4.28 The abolition of the regional planning level makes role of local planning authorities, including the DNPA, far more important in securing the delivery of renewable energy generation. This is recognised in the University of Exeter report, which notes that understanding of resource by local planning authorities is the crucial for setting relevant policies and that many authorities have undertaken their own assessments and set their own policies.
- 4.29 The DNPA has set its own target for the generation of 1.5MW (1500kW) of electricity from hydro power.

National Planning Policy Framework

- 4.30 In March 2012 the Department of Communities and Local Government (DCLG) published the National Planning Policy Framework (NPPF). The NPPF sets out the Government's planning policies for England and how these are expected to be applied. Of relevance to the current planning application are the following:
 - 4.30.1 The purpose of the planning system is to contribute to the achievement of sustainable development (paragraph 6). There are three dimensions for sustainable development: economic, social and environmental (paragraph 7).
 - 4.30.2 At the heart of the NPPF is a presumption in favour of sustainable development. For decision-taking this means:-
 - (a) Approving development proposals that accord with the development plan without delay; and
 - (b) Where the development plan is absent, silent or out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in NPPF or specific policies in the NPPF indicate development should be restricted.
 - 4.30.3 The planning system should not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives; proactively driving and supporting sustainable economic development; supporting the transition to a low carbon future in a changing climate, encouraging the re-use of existing resources, including conversion of existing buildings, and encouraging the use of renewable resources (for example, by the development of renewable energy); contribute to conserving and enhancing the natural environment; encouraging the effective use of land by re-using land which has been previously development; conserving heritage assets in a manner appropriate to their significance, so that they can enjoyed for their contribution to the quality of life of this and future generations (paragraph 17).

- 4.30.4 Planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure "*this is essential to the economic, social and environmental dimensions of sustainable development*" (paragraph 93).
- 4.30.5 Local authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources in order to help increase the use and supply of renewable and low carbon energy (paragraph 97).
- 4.30.6 When determining planning applications, local planning authorities should; not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions; and approve the application if its impacts are (or can be made) acceptable (paragraph 98).
- 4.30.7 The planning system should contribute to and enhance the natural and local environment by; protecting and enhancing valid landscapes, geological conservations interests and soil; recognising the wider benefits of eco-systems services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to help the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from pollution (paragraph 109).
- 4.30.8 Minimise impacts on biodiversity and geo-diversity through planning policies promoting the preservation, restoration and recreation of priority habitats, ecological networks and the protection and recovery of priority species populations (paragraph 117) and when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying a number of principles including the encouragement of opportunities to incorporate biodiversity in and around developments (paragraph 118).
- 4.30.9 In determining planning applications local planning authorities should identify and assess the particular significance of any heritage asset that nobody else effected by a proposal taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of the proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal (paragraph 129). In determining planning application, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; a positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness (paragraph 131).
- 4.30.10 The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining applications. In weighing applications that effect directly or indirectly non-designated heritage assets, a balance judgment will be required having regard to the scale of any harm or loss and the significance of the heritage asset (paragraph 135).

The English National Parks and Broads UK Government Vision and Circular 2010

- 4.31 The Circular published in 2010 sets out the vision for English National Parks, including Dartmoor. By 2030 English National Parks should be places where:

- 4.31.1 There are thriving, living, working landscapes notable for their natural beauty and cultural heritage. They inspire visitors and local communities to live within environmental limits and to tackle climate change. The wide-range of services they provide (from clean water to sustainable food) are in good condition and valued by society.
 - 4.31.2 Sustainable development can be seen in action. The communities of the Parks take an active part in decisions about their future. They are known for having been pivotal in the transformation to a low carbon society and sustainable living. Renewable energy, sustainable agricultural, low carbon transport and travel and healthy, prosperous communities have long been the norm.
 - 4.31.3 Wildlife flourish and habitats are maintained, restored and expanded and linked effectively to other ecological networks. Woodland cover has increased and all woodlands are sustainably managed, with the right trees in the right places. Landscapes and habitats are managed to create resilience and enable adaptation.
 - 4.31.4 Everyone can discover the rich variety of England's natural and historic environment, and has the chance to value them as places for escape, adventure, enjoyment, inspiration and reflection, and a source of national pride and identity. They will be recognised as fundamental to our prosperity and well-being.
- 4.32 The vision is to guide National Park Authorities in their long-term planning and strategic decision-making.
- 5 The Development Plan
- 5.1 The recently issued National Planning Policy Framework (NPPF) requires local authorities to adopt proactive strategies to mitigate for and adapt to climate change.
 - 5.2 Regional Policy set an overall target for the South West for renewable energy production of 850MW by 2020, with a target for Devon of 151MW by 2010. Even if the consented but not constructed projects are taken into consideration then the figure would still only be 137MW. Energy consumption in Devon in 2008 was 18.8TWh [University of Exeter Centre for Energy and the Environment – A review of renewable energy resource assessment and targets for Devon; 15 March 2011]. Generating 15% of that from renewable sources would require installed capacity of 851MW (based on a renewables load factor of 38%). According to the RegenSW 2012 Annual Survey, the current installed capacity for the whole region stands at 525MW.
 - 5.3 Devon failed to meet its 2010 target, even had the Fullbrook wind farm been included in those figures. The 2020 regional target is even more challenging and arguably will not achieve the 15% required. Renewable energy schemes should therefore be consented in all locations where they are acceptable and the fact of a shortfall against target is a material consideration in the planning balance for individual schemes.
 - 5.4 The Development Plan consists of:
 - 5.4.1 Regional Planning Guidance 10 (RPG10) 2004
 - 5.4.2 Devon Structure Plan 2016
 - 5.4.3 Dartmoor National Park Core Strategy 2008
 - 5.5 Material considerations include:
 - 5.5.1 The National Planning Policy Framework

5.5.2 Dartmoor National Park Development Management and Delivery Plan (emerging; June 2012)

5.6 The relevant policies are summarised in the table below. An analysis of the policy framework in the context of the proposed development is then presented in the ensuing sections.

Policy summary table

Topic	Structure Plan	Core Strategy	NPPF (paragraph)
Sustainable development	ST1 - sustainability	COR1 – sustainability COR8 – climate change	All
Renewable energy	CO12 - renewable energy	COR10 – renewable energy	17 – core principles 93 – climate change 97 – renewable energy 98 – renewable energy
Cultural heritage	CO2 – National Parks CO8 - archaeology	COR4 – design and sustainable development COR6 - archaeology	126 – historic environment
Landscape	ST1 - sustainability CO7 – historic settlements and buildings	COR3 – National Park landscape	97 – renewable energy 109 – natural environment
Natural environment	CO2 – National Park COR7 - Biodiversity		109 – 125 – natural environment

- 6 Sustainable development
- 6.1 Sustainable development and renewable energy are linked in these proposals and great weight should be given to the policy support for the development. The scheme will bring infrastructure back into use, thus ensuring its on-going survival, restore a functional link to the past and provide low impact clean electricity.
- 6.2 Small scale renewable energy proposals within the Dartmoor National Park will positively contribute towards the attainment of a 2030 English National Park Vision (Circular 2010) where thriving, living, working landscape will inspire visitors and local communities to live within environmental limits and to tackle climate change; where sustainable development can be seen in action and where the transformation to a low carbon society, sustainable living including renewable energy are the norm.
- 6.3 Policy ST1 requires the conservation of resources, including the exploitation of renewable energy. The hydro installation is one solely for renewable energy and, as stated above, the fish pass is a necessary component of that scheme. The policy also requires the development to be sympathetic to the character of the area. The weir and leat will be, are and have always been industrial development. The weir and leat serve no other purpose here than to allow the exploitation of the water flow at this location. The present design of the fish pass will undoubtedly represent a new phase of development but only in continuation of a use that has been on-going since the 16th century. It is in the character of this area for there to be a weir and leat and that will not be changed, but rather maintained, by this proposal. The structure of the fish pass will soften with plant growth over time and through the re-use of some of the stones from the original weir against its flanks.
- 6.4 Core Strategy policy COR1 requires the efficient use of infrastructure, the conservation of scarce resources and the conservation or enhancement of biodiversity interests. All of these are achieved by these proposals. Without this development, it is likely that the weir and leat will continue to deteriorate and the opportunity to exploit the renewable energy potential of the river at this point will be missed. The new fish pass will improve the migration of salmonoids associated with the adjacent SSSI.
- 7 Renewable energy
- 7.1 The presumption in favour of small-scale renewable energy projects within the Dartmoor National Park is set out in Structure Plan policy CO12, Core Strategy Policy COR10 and in the emerging DMD Policy 15. The thrust of the advice in all policies is the same: proposals for the development of small scale renewable energy schemes within the National Park will be permitted provided they comply with site specific criteria intended to ensure no significant material harm to the environment, and that the landscape character, bio-diversity, archaeology and cultural heritage assets are not harmed.
- 7.2 Given the current and growing gaps between the renewable capacity required and that currently operational or consented and given the intense pressure internationally and from the Government for those targets to be raised, great weight should be given to the policies that support the development of renewable energy installations, particularly such as this one which is low impact and re-instates a former industrial use in this area.
- 7.3 Policy CO12 is supportive of renewable energy. There are no amenity issues associated with the hydro scheme. It is relevant therefore that there is no public access to the river at this point and so any aspect of the scheme would only be visible to adjacent landowners. In terms of environmental effects, these must be over-riding. In considering the environmental effects of this proposal it is necessary to balance any opposing influences. In terms of the character of the area, this is a proposal to bring the weir, leat and mill back into use; it is a restoration project and should therefore receive positive policy support. In terms of biodiversity, the new fish pass will support and improve the situation for the adjacent SSSI.

- 7.4 Policy COR10 is supportive of small scale renewable energy schemes and, according to the notes, particularly hydro schemes. This is, in part, recognition of the role that water has traditionally played in supporting human endeavour in the National Park. As noted above, the fish pass is a necessary part of the overall renewable energy scheme. The policy support is caveated in respect of over-riding environmental and amenity considerations (as noted above).
- 7.5 The prudent use of resources, the re-use of land the development of renewable energy are all core principles of the NPPF and support these applications.
- 7.6 The conservation of resources, exploitation of renewable energy and the re-use of land and infrastructure are all central to the Government's drive for sustainable development. These proposals are therefore supported by the Development Plan and by wider Government and International policy.
- 8 Cultural heritage
- 8.1 The relevant policy framework for the evaluation of the acceptability of the proposed development in terms of its effect on the cultural heritage is comprised within structure plan policy CO2 and CO12, Core Strategy Policies CO2, CO7, CO8 and CO12, Core Strategy Policies COR1, COR3, COR4, COR6 and COR12 and DMD1, DMD6, DMD11 and DMD15. Taken together, the policy framework and the criteria against which the acceptability of the proposed development should be judged advise as follows:
- 8.1.1 The quality of Devon's historic environment should be conserved and enhanced and care should be taken to conserve the special historic character of the landscape, buildings of historic or architectural interest and their settings (policy CO2, CO7, DMD1, COR1 and COR6).
- 8.1.2 Development will only be permitted where it would conserve and enhance cultural heritage of the Park or promote the understanding and enjoyment of the special qualities of the Park or foster social or economic well-being of communities within the Park (policies CO2, COR1, COR3, DMD1 and DMD6).
- 8.1.3 Unscheduled sites should be preserved "wherever possible" and the importance in value of the remains will be a determining factor. Where the loss of an archaeological site or area is acceptable, proper provision for excavation and recording will be required (policy CO8).
- 8.1.4 In determining planning applications with regard to historical and archaeological landscape features and artefacts, vernacular and other historic buildings and traditional man-made features that contribute to Dartmoor's special environmental qualities (policy CO3).
- 8.1.5 Consent will only be granted for the demolition of a local heritage asset when partial removal is necessary to sustain the building or asset in its original use or partial removal is necessary to conserve the building or asset through a use that is sustainable (DMD11).
- 8.2 The second reason for refusal cited in respect of the fish-pass (application number 0645/11) was that it would result in the substantial demolition of a heritage asset. The evidence that has been gathered and is presented in support of the current planning application requires a fundamental re-appraisal of the status of the weir.
- 8.3 An archaeological and documentary history of the Huckworthy Weir has been produced by Cynthia Gaskell Brown. This is material that has not previously been seen by the Authority. The relevance of this report is the historic/ archaeological status of the current weir and therefore the manner in which it should be assessed against the Development Plan policies.
- 8.4 In response to the original application for the fish pass, the Authority's archaeology officer referred to impact on the original weir where that was deemed to date to the

late 16th century. The material now presented in support of this re-application is that whilst the original weir was established around 1578, storm damage in 1890 necessitated the rebuilding of the western section; these works incorporated concrete and cement and were buttressed with railway rails. The eastern section was also capped with stones bedded in cement and again a crest was formed of a railway rail fixed to granite setts. The granite sluice gate posts and footbridge are assessed as late 19th century and a concrete fish pool was constructed in 1931. Therefore, whilst some of the loose boulders may have been part of the original 16th century construction the weir as seen today is substantially a mix of 19th and 20th century repairs and alterations.

- 8.5 It is suggested, therefore, that whilst the fact of there having been a weir in this position is of cultural and historic relevance, indicating the period over which the flow of the River Walkham has been harnessed to support human endeavour, the physical structure of the weir is not, of itself, of more than local interest.
- 8.6 The repairs to the weir that will be necessary as part of the implementation of the proposal for the fish pass will, therefore, conserve the existence of a weir at this point on the river. Without some purpose being given to the weir it is likely to continue to deteriorate and the link to the past will be lost. In the context of the policies, therefore, it is not the *current structure* of the weir that should be conserved but rather the continued existence of *a* weir at this location.
- 8.7 The Archaeological Reports submitted in support of the planning application concludes that "*whilst the site itself dates from the late 16th century and some of the loose boulders may originate from that period, the Weir is substantially a mix of 19th and 20th century repairs and alterations in an unstable condition with the erosion rapidly removing boulders from beneath the capping*".
- 8.8 This has the following implications for the evaluation of this planning application:
- 8.8.1 Rather than being a heritage asset dating from the late 16th century, the weir is in fact a far more modern composition;
- 8.8.2 The structure of the weir is unstable and erosion is rapidly removing structural components beneath the capping;
- 8.8.3 The proposed development provides an opportunity to secure the restoration and continued use of the weir that will otherwise be lost.
- 8.8.4 Ironically, the refusal of planning permission on the grounds that there would be a substantial demolition of a heritage asset is far more likely to see the loss of the weir as a landscape and heritage feature than to secure its retention. In the Foreword to the NPPF, the Secretary of State noted that the historic environment "*is better cherished if a spirit of place thrives rather than withers*". The sense of place of this weir will wither in the absence of proactive restoration. As English Heritage noted in rejecting the request to list the weir in February 2012, the weir failed to demonstrate the required level of special interest in either engineering, architectural, historic, group value or original fabric significance. English Heritage noted that the weir is "undoubtedly of local interest". The structural integrity of the weir is currently failing and if the local interest in a weir remaining in this location is to be protected then the current planning application offers the only realistic means of securing this.
- 8.9 The preservation of cultural heritage is important but must be focused in the right direction. In this case, the heritage value is the link to man's exploitation of the environment. That link will not be weakened but rather strengthened by this development.
- 8.10 The previous refusals associated with this scheme were, when taken together, founded at least in part on the premise that the works necessary to the leat and the construction of the new fish pass would amount to the substantial demolition of a heritage asset. As has already been noted above, the relevance of the current, more

modern, structure is that it reflects the on-going exploitation of this natural resource. Allowing the weir and leat to fall into further disrepair would be counter to the spirit of the policies to preserve cultural heritage. For the reasons set out above, the applicant does not believe that it is appropriate to consider the weir itself as a heritage asset but rather it is the continued existence of a functioning weir at this point that is of cultural significance. The restoration of the weir, fish pass, leat and mill would all serve to strengthen the cultural heritage link at this site and would be in accordance with policy CO2 of the structure plan and COR4 of the Core Strategy.

- 8.11 The standing of the weir as a heritage asset has been discussed. In terms of the NPPF, planning authorities should take into account the desirability of putting such assets to a viable use consistent with their conservation. Aside from the weir, the implementation of these proposals will result in the leat and sluice gate being brought back into use and thereby conserved. Bringing the weir back into use will restore the relationship between nature and industry in this location.
- 8.12 Given the insight that recent research has given to the date of the current structures, the proposals would not conflict with policies CO8 or COR6 as the weir as seen is a relatively modern rebuild of the former 16th century original. The proposals do not conflict with policy and the reinstatement of the infrastructure at this point would strengthen the heritage link to the past.
- 8.13 The Vision for National Parks by 2013 seeks thriving, living, working landscapes notable for their natural beauty and cultural heritage with transformation to a low carbon society and sustainable living, including renewable energy, being established features of National Parks. The proposed development offers an opportunity to move towards the attainment of this Vision and should be regarded as such.

9 Landscape

- 9.1 The policy framework relevant to the evaluation of the proposed development in terms of its effects on the landscape are found in Structure Plan Policy CO2, in the DNPA Core Strategy Policy COR1, COR3, COR4 and in the General Development Management policies DMD1, DMD6 and DMD15. The policy advice is contained within adopted and emerging policy documents but is broadly consistent. The criteria against which the proposed development should be judged are summarised below.
- 9.1.1 Conservation and enhancement of natural beauty, wildlife and cultural heritage will be given priority over other considerations (CO2, DMD1) so development will only be permitted where it would:
- (a) Conserve and enhance natural beauty, wildlife and cultural heritage;
 - (b) Promote the understanding and enjoyment of the special qualities of the Park or;
 - (c) Foster social or economic well-being of communities within the Park, supporting socio-economic vitality (policy CO2, COR1, COR3, DMD1, DMD6);
- 9.1.2 Secure the efficient use of land and infrastructure and the conservation of scarce resources (COR1);
- 9.1.3 Demonstrate the high quality of design and construction, with scale and layout appropriate for the site and its surroundings, or enhancing the quality and distinctiveness of the natural environment (COR1 and COR4);
- 9.1.4 Make the best sustainable use of the site including the re-use of existing buildings; being attractive, functional, accessible, energy and water efficient development (COR2 and COR4);
- 9.1.5 Where the development comprises a small-scale renewable energy scheme then it will be considered favourably subject to there being no

overriding environmental and amenity considerations, do not harm the landscape character of the area and do not cause significant material harm from size, scale, shape, colour, glare and reflectivity (COR10 and DMD15).

- 9.2 In the evaluation of the proposed developments and the application of landscape policies it is important that the factors considered below are recognised.
- 9.3 The proposed development is for renewable electricity generation and the site has been selected because it is suitable for that purpose. As PPS22 noted (paragraph 16), "*most renewable energy resources can only be developed where the resource exists and where economically feasible*". The locational constraints for hydro-electric generation have been examined by the applicants and the conclusion reached that this application site does offer a viable renewable energy resource. Accordingly, the presumption in favour of sustainable development (NPPF) and the presumption in favour of small-scale renewable energy schemes set out in Policy COR10 and DMD15 apply. So far as landscape considerations are concerned, planning permission should only be refused if significant material harm is identified and the effect on landscape character is such that it is an overriding environmental consideration.
- 9.4 The proposed development will facilitate the restoration, re-use and future of an existing feature of the landscape and woodland: the leat. Accordingly, the proposed development will contribute towards the conservation and enhancement of the natural beauty of the local area in accordance with policies CO2, COR1, COR2 and COR3.
- 9.5 The proposed development will use the existing leat and resource water resource and the weir to secure the generation of renewable energy. It is an efficient use of land and infrastructure and reflects the conservation of scarce resources in accordance with policy COR1.
- 9.6 The proposed development will make the best sustainable use of the site, using the existing leat and securing its future; providing the only potential for securing the possible future re-use of Huckworthy Mill and a mill and securing the future of the weir. It is therefore making the best sustainable use of the site, re-using existing structures (the leat and the weir), providing a functional and accessible development that is also demonstrative of an efficient use of energy and water in accordance with policies COR2 and COR4
- 9.7 Reason 1 for refusal of the planning application for the fish-pass, which is a component of the current planning application for the hydro-electric scheme, failed to consider the fish-pass as an integral part of the hydro-electric scheme. To that end, the reason for refusal to relevant policies in the development plan concerning the generation of renewable energy. The reason for refusal failed to reflect the balance that also needs to be struck between the landscape and visual effect and nature conservation interests. No account appears to have been taken of the fact of the existing fish-pass is substandard. It does not comply with current guidance and is not in the best interests of the salmon and sea-trout species seeking to migrate to the Site of Special Scientific Interest (SSSI) above the weir.
- 9.8 The proposed fish-pass represents the functional requirements for the species and migration requirements in this location. Any replacement or upgrade of the existing fish-pass would look like the development for which planning permission is now sought. In refusing planning permission for the fish-pass on the grounds of its visual impact the DNPA has failed to comply with its own policies on sustainable development and conservation of the natural environment. In this particular case the species concerned, whose safe passage would be secured through the proposed fish-pass, are European Protected Species heading for a nationally designated nature conservation area (the SSSI).
- 9.9 As the Planning Officer's report to Committee in respect of application O645/11 recognised, there has been a man-made intervention in the stretch of river between Huckworthy Bridge and Ward Bridge since the 16th century including a more recent concrete fish-pass; the intervention is understood in the way the weir has affected

on the eastern bank of the river to accommodate the leat intake. Therefore it is considered that the proposal will not be a new and unacceptable intervention on a pristine part of the river, but rather the latest phase in man-made structures at this point. There is no public access to the vicinity of the application site although it is accessible from neighbours' land and person fishing this stretch of the river. The Planning Officer concluded that the proposal would not have an overriding detrimental impact on the character and appearance of the river corridor. Material is submitted in support of the Design and Access Statement to demonstrate a fish-pass in another part of the National Park, to show how the effect of the essential concrete structure has mellowed within just 2-3 years.

- 9.10 The landscape is relatively enclosed by the surrounding trees. Longer distance views are necessarily restricted. As noted above, it is also relevant that there is no public access to the river at this point.
- 9.11 The weir, leat and mill have been features of this landscape, in one form or another since the 16th century. To allow the weir and leat to deteriorate further would be a loss to the environment, would change the pattern of water flow in this locality and alter the character. To permit this development would restore the structure and function of the weir the fish pass and the leat and preserve man's functional relationship with the landscape at this point.
- 9.12 None of the features of this landscape are listed – despite (unsuccessful) attempts this year and the work of Cynthia Brown charts the development and redevelopment of the weir over the centuries. Structure Plan policy CO7 requires that historic character is preserved. The historic character of this locality is not preserved by allowing further erosion of a nineteenth century weir such that the area returns to free flowing river. The character of this area derives from the continuing evidence of man's intervention in the landscape. To the extent that that functional relationship is maintained, the historic character of the area is preserved.
- 9.13 Policy COR3 is similarly focused. The weir is not 'historic' or 'archaeological' as a feature in its own right. The historic element derives from the existence of a weir at this point as evidence of man's historic exploitation of the natural environment. Permitting the repair of the weir and the installation of an improved fish pass will also ensure the survival of the leat, the sluice gate and bridge.
- 9.14 These proposals do not conflict with the policies and indeed they support the objectives of the policy to maintain the character of the landscape.

10 Natural environment

- 10.1 Relevant policies from the development plan and emerging DMD in respect of the evaluation of the proposed development in terms of major conservation are contained within the following policies: Structure Plan Policies CO2, CO9, CO10 and CO12, DNP Core Strategy Policies COR1 and COR7, COR4, COR7 and COR9, and emerging policies DMD1, DMD6, DMD14 and DMD16. The criteria against which the acceptability of the proposed development will be judged can be summarised as follows:
 - 10.1.1 The conservation and enhancement of natural beauty, wildlife and cultural heritage will be given priority over other considerations, with development only permitted where it would conserve and enhance a natural beauty, wildlife, cultural heritage or promote understanding and enjoyment of the special qualities of the Park or foster social or economic well-being of the communities within the Park (policies CO2, COR1, COR3, DMD1 and DMD6).
 - 10.1.2 Development proposals will conserve, enhance and restore bio-diversity and geo-diversity by furthering the conservation and enhancement of nationally protected sites, habitats and species, conserving, enhancing or restoring priority, habitats, species and geo-diversity assets identified in the Dartmoor Bio-diversity Action Plan; protecting and where appropriate enhancing other defined sites, features, habitats, species or networks or

natural processes of ecological or geological importance; ensuring that effecting avoidance or on site mitigation measures are put in place where there may be an adverse effect on bio-diversity interests (DMD14).

- 10.1.3 Where the proposal is for the development of a small-scale renewable energies scheme then it will be permitted provided bio-diversity interests are not harmed (DMD15).
 - 10.1.4 Development will only be permitted where it conserves or enhances features of major conservation significance (policy DMD6).
 - 10.1.5 In determining acceptability of development in terms of fixed contribution towards a conservation enhancement of characteristic landscape any features in this regard will be had to wildlife habitats, water courses, river corridors and woodland (policy COR3).
 - 10.1.6 Development proposals will protect, maintain or enhance the bio-diversity interests of the National Park. Opportunities will be sought to restore or re-create habitats or enhance the linkages between them (policy COR7).
- 10.2 The description of the proposed development includes a fish-pass. This is a requirement of the Environment Agency and the requirement has arisen not because the proposed hydro-electric development would lead to disruption of an existing fish-pass, but rather, because the existing fish-pass (outside the application site) is defective and does not provide the level of connectivity for migrating salmon and sea-trout seeking access to the upper reaches of the river and the SSSI there. Therefore, the fish-pass is itself a development that is intended to conserve and enhance wildlife and major conservation interests. It will positively improve the migration route for salmon and sea-trout within the river.
- 10.3 Policy COR7 advises that opportunities should be sought to restore or recreate habitats or enhance the linkages between them: the grant of this planning permission will be entirely in accordance with the advice in policy COR7. The design of the fish-pass complies with the requirements of the Environment Agency's National Fish Pass Panel (unlike the existing fish-pass).
- 10.4 Opportunities for habitat creation within the slower more uniform flow of water within the restored leat will create a habitat for aquatic invertebrates and may encourage additional species. An abstraction licence is required from the Environment Agency in order for the hydro-electric scheme to operate and through the conditions on this licence the effectiveness of the fish-pass, by-wash, outfall and annual surveys within what is currently a depleted reach will be monitored to ensure that no harm to fish levels will occur.
- 10.5 In terms of terrestrial ecological considerations. European Protected Species including bats, dormice, otters and some birds and amphibians are present within the wider area and Natural England are content that the proposed development would not cause harm to wildlife and, therefore, no objection has been made subject to the recommendations contained within the Ecological Report and the Dormouse Survey submitted by the applicant are undertaken.
- 10.6 Accordingly, there will be no breach of development plan policies related to major conservation. Indeed, the enhancement of opportunities for migrating fish is a positive feature of the proposed development and will not be secured unless the fish-pass is permitted. It is the case that the existing fish-pass is defective and, were that fish-pass to be improved then it would be in a similar design to that which is currently before the Committee. In other words, enhancement of migration linkages for the protected aquatic species using this river will only be secured through the construction of a fish-pass such as that proposed as part of this application.
- 10.7 Upstream of the weir is a SSSI. It is the view of Fishtek that the integrity of the SSSI would be compromised if the weir were to fail as this would have a detrimental effect on the ability of salmonoid species to migrate and breed. The proposed fish pass was a requirement of the Environment Agency in response to the original

application for the hydro installation; the design of the pass was approved by the National Fish Pass Panel. This renewable energy proposal will improve the biodiversity of the area by supporting the SSSI and it accords with the policies of the Development Plan and the NPPF

11 Conclusion

11.1 The National Park Authority is required to determine these applications in accordance with the Development Plan unless material considerations indicate otherwise. The environmental and economic imperatives that drive international, European, National, Regional and National Park policy on sustainable development, renewable energy and the conservation and enhancement of the natural environment have been described in sections 3 and 4 of this Planning Statement. All are material considerations of considerable relevance to the determination of the planning application for the hydro-electric project and fish-pass at Huckworthy Mill.

11.2 The policies of the development plan are contained within the Regional Policy Guidance Note 10: South West, the saved policies of the Devon Structure Plan 2016, the Dartmoor National Park Core Strategy and consolidated in the emerging policies of the Regional Strategy (albeit this level of policy making is expected to be abolished) and the emerging Dartmoor National Park Development Management and Delivery Development Plan Document. The relevant policies of all these plan documents have been identified and assessed within this Planning Statement and the following conclusions are reached:

11.2.1 The grant of planning permission for this development will conserve and enhance the nature beauty, wildlife and cultural heritage assets within the National Park through securing the restoration, retention and future of assets that form part of the landscape, nature conservation and cultural heritage features including the leat, the sluice gate, the weir and the migration route for protected European species. The Devon Structure Plan Explanatory Memorandum advises at paragraph 5.2.7 that the rich archaeological remains within the Park should be protected and the wonderful wildlife conserved and enhanced. The proposed development provides an economically viable means of achieving this;

11.2.2 By securing the restoration of the leat, the potential re-use of Huckworthy Mill and the restoration of the weir the proposed development will make the best sustainable use of the site, securing the preservation, restoration and re-use of existing landscape and cultural heritage features and delivering an efficient use of land and infrastructure;

11.2.3 By securing the generation of electricity from renewable energy the proposed development will support the Dartmoor National Park Authority's own Management Plan which recognises (page 89) that "*National Parks should be leading the way in meeting and exceeding Government targets for reducing emissions of CO2.*" and "*Small-scale hydro-electric in the right locations are likely to be compatible with the special qualities of the National Park*". The 2012 goal for the Dartmoor National Park Authority in respect of small-scale hydro-electricity is "*E.G.3: at least 1500 kw will be generated by new small-scale hydro-electricity plants operating in the National Park of between 150 kw and 500 kw each*". The proposed development will contribute over 100 kw towards this target, which is currently a long way from being achieved. As paragraph 98 of the NPPF recognises, "*small-scale [renewable energy] projects provide a valuable contribution to cutting greenhouse gas emissions*".

11.2.4 The proposed development will positively support the conservation and enhancement of existing historic and archaeological landscape features and artefacts, complying with advice in the NPPF that the historic environment is better cherished if the spirit of place thrives rather than withers.

11.2.5 The proposed fish-pass is a requirement of the Environment Agency and recognises, specifically, that in this degraded part of the river the existing

fish-pass does not meet the required standards. Accordingly, by improving access for migrating fish across this weir, the proposed development will positively enhance linkages between habitats in accordance with Structure Plan and Core Strategy Policy.

- 11.2.6 The limited extent to which there may be a perceived impact on local landscape and cultural heritage features are more than outweighed by the benefits offered by the proposed development.
- 11.3 The proposed development, if consented and constructed, will demonstrate sustainable development in action; making a positive contribution towards National Park's transformation towards a low carbon society, sustainable living and renewable energy generation. In addition, the proposed development offers an opportunity to create resilience and enable adaption, positively supporting the maintenance, restoration and expansion of wildlife, species and habitats and making a contribution towards the tackling of climate change and living within environmental limits. There is a presumption in favour of sustainable development and the applicants urge that this planning application be granted.