Fermanagh & Omagh District Council
Comhairle Ceantair Fhear Manach agus na hÓmaí

Fermanagh & Omagh Draft Plan Strategy Representations Form

Hard Copies of the Draft Plan Strategy are available for inspection during normal opening hours at the council's principal offices. The documents, electronic copies of this form, and our 'Guidance for Making Responses to the Plan Strategy' may be viewed at: https://www.fermanaghomagh.com/

How to respond

You can make representations about the Draft Plan Strategy by completing this survey form, or if you prefer, you can fill out this form online.

For further assistance contact: developmentplan@fermanaghomagh.com or Tel: 0300 303 1777; All representations must be received by 21st December 2018 at 12:00 noon.

SECTION 1. Contact Details

Individual ☐ Organisation ☐ Agent ☒ (complete with your client's details first)

First Name

Last Name

Job Title (Where relevant)

Organisation (Where relevant)

Quinn Building Products Ltd

Address

235 Ballyconnell Road

Derrylin

Co. Fermanagh

Postcode

BT92 9GP

Telephone Number

08000 322 122

Email Address

info@quinn-buildingproducts.com

If you are an Agent, acting on behalf of an Individual or Organisation, please provide your contact details below. (Please note you will be the main contact for future correspondence).

First Name

Chris

Last Name

Tinsley

Job Title (Where relevant)

Senior Town Planning Consultant

Organisation (Where relevant)

Quarryplan Ltd

Address

10 Saintfield Road

Crossgar

Downpatrick

Postcode

BT30 9HY

Telephone Number

028 44 832904

Email Address

[redacted]

SECTION 2. Representation

What is your view on the Draft Plan Strategy?

Sound ☐

If you consider the Draft Plan Strategy to be **sound**, and wish to support the Plan Strategy, please set out your comments below.

(Continue on a separate sheet if necessary)

OR

Unsound ☒

If you consider the Plan Strategy to be **unsound**, please identify which test(s) of soundness your representation relates to, having regard to Development Plan Practice Note 6.

Soundness Test No:

☐ **P1 Has the Draft Plan Strategy been prepared in accordance with the council's timetable and the Statement of Community Involvement?**

☐ **P2 Has the council prepared its Preferred Options Paper and taken into account any representations made?**

☐ **P3 Has the Draft Plan Strategy been subject to sustainability appraisal including Strategic Environmental Assessment?**

☐ **P4 Did the council comply with the regulations on the form and content of its Draft Plan Strategy and procedure for preparing the Draft Plan Strategy?**

☐ **C1 Did the council take account of the Regional Development Strategy?**

☐ **C2 Did the council take account of its Community Plan?**

☒ **C3 Did the council take account of policy and guidance issued by the Department?**

☐ **C4 Has the plan had regard to other relevant plans, policies and strategies relating to the council's district or to any adjoining council's district?**

☒ **CE1 Does the Plan Strategy sets out a coherent strategy from which its policies and allocations logically flow and where cross boundary issues are relevant it is not in conflict with the Draft Plan Strategies of neighbouring councils?**

☒ **CE2 Are the strategy, policies and allocations realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base?**

☐ **CE3 Are there clear mechanisms for implementation and monitoring?**

☐ **CE4 Is it reasonably flexible to enable it to deal with changing circumstances?**

Plan Component - To which part of the Draft Plan Strategy does your representation relate?

(i)	**Relevant Paragraph**	See accompanying letter
(ii)	**Relevant Policy**	See accompanying letter
(iii)	**Proposals Map**	See accompanying letter
(iv)	**Other**	See accompanying letter

Details

Please give details of why you consider the Plan Strategy to be unsound having regard to the test(s) you have identified above. Please be as precise as possible.

See accompanying Letter

(Continue on a separate sheet if necessary)

Modifications

What, if any, modifications do you think should be made to the section, policy or proposal? What specific modifications do you think should be made in order to address your representation?

See accompanying letter

(Continue on a separate sheet if necessary)

If you are seeking a change to the Draft Plan Strategy, please indicate how you would like your representation to be dealt with at Independent Examination:

☐ **Written Representations** ☒ **Oral Hearing**

SECTION 3. Data Protection and Consent

Data Protection

In accordance with the Data Protection Act 2018, Fermanagh and Omagh District Council has a duty to protect any information we hold on you. The personal information you provide on this form will only be used for the purpose of Plan Preparation and will not be shared with any third party unless law or regulation compels such a disclosure. It should be noted that in accordance with Regulation 17 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015, the council must make a copy of any representation available for inspection. The Council is also required to submit the representations to the Department for Infrastructure and they will then be considered as part of the Independent Examination process. For further guidance on how we hold your information please visit the Privacy section at www.fermanaghomagh.com/your-council/privacy-statement/

By proceeding and submitting this representation you confirm that you have read and understand the privacy notice above and give your consent for Fermanagh and Omagh Council to hold your personal data for the purposes outlined.

Consent to Public Response

Under planning legislation we are required to publish responses received in response to the Plan Strategy. On this page we ask for your consent to do so, and you may opt to have your response published anonymously should you wish.

Please note: Even if you opt for your details to be published anonymously, we will still have a legal duty to share your contact details with the Department for Infrastructure and the Independent Examiner/Authority they appoint to oversee the examination in public into the soundness of the plan. This will be done in accordance with the privacy statement above.

☒ **Yes with my name and/or organisation**

☐ **Yes, but without my identifying information**

Signature

[redacted]

Date

20/12/2018

File ref: CST/QUINN/FODCREP

10 Saintfield Road
Crossgar
Downpatrick
Co. Down
BT30 9HY

T: 028 44 832904
E: info@quarryplan.co.uk
W: www.quarryplan.com

Development Plan Team
Planning Department
Strule House
16 High Street
Omagh
BT78 1BQ

20th December 2018

Dear Sir/Madam

RE: Quinn Building Products Ltd response to Fermanagh and Omagh DC Draft Plan Strategy

Quarryplan Ltd is instructed by its client, Quinn Building Products Ltd (QBP), to submit a representation to the Fermanagh and Omagh District Council (FODC) Local Development Plan Draft Plan Strategy (LDPS). The representation considers the policies proposed within the Draft Plan and details areas where further work is considered necessary. The representation also provides QBP's response as to whether various aspects of the draft plan meet the necessary soundness tests referenced in the Council's document '*Guidance Notes on the Tests of Soundness and Submitting a Representation*'.

Background

Our client is one of the UK and Ireland's most diverse and established manufacturers of construction products. Existing operations are based across a number of sites to the south west of Derrylin in addition to a recently acquired extractive operation to the north west of Fivemiletown (formerly operated by Acheson and Glover). The company produce a range of block, aggregate, tile, precast concrete and cement products. The company have been excavating high quality products and materials from Fermanagh based quarries for over 45 years.

The company is a key employer in the local area, providing direct employment to 282 employees across its operations in Fermanagh and also supporting over 300 additional jobs in other associated entities both in Northern Ireland and the Republic of Ireland. The employment covers and supports a range of different skill levels ranging from:

- Environmental Services, Monitoring and Management;
- Health and Safety Officers;
- Finance and Human Resources
- Administrators;
- Sales Representatives;
- Managers;
- Quarry Engineers, Surveyors, Geologists, Hydro-geologists, Ecologist, Archaeologists;
- Excavators, drivers and machine and plant operators;
- Drillers;
- Concrete Producers;
- Concrete Product Manufacturers

- Asphalt/Coated road stone producers;
- Roads Engineers; and
- Construction Workers and High Maintenance Staff.

The company has a multi-million pound expenditure every year which is made locally on the likes of purchases, transport, fuel, wages and business rates.

Given the significant contribution that the company makes to the local economy in Fermanagh and Omagh district and the wider regional economy, it is considered imperative that policies which allow for the protection of existing, established employment generating uses and encourage the continued growth of QBP's existing operations are acknowledged and afforded suitable weight in the emerging LDP.

Regional Planning Policy

Regional Development Strategy 2035

The Regional Development Strategy (RDS) does not provide specific policy aims and objectives for minerals but recognises the importance of the rural area, including towns and villages, which offers opportunities in terms of their potential growth in new sectors, are attractive places to invest, live and work and have a role as a reservoir of natural resources and highly valued landscapes (SFG13).

Spatial Planning Policy Statement (SPPS)

Paragraphs 6.154 to 6.126 of the SPPS provide specific guidance in relation to the strategic policy which must be taken in to account when preparing LDP's.

Paragraph 6.154 sets out the policy approach for minerals development, stating that:

"The policy approach for minerals development, including peat extraction from bog lands, must be to balance the need for mineral resources against the need to protect and conserve the environment".

Paragraph 6.155 of the SPPS states that LDP's should:

- ensure that sufficient local supplies of construction aggregates can be made available for use within the local, and where appropriate, the regional market area and beyond, to meet likely future development needs over the plan period;

- safeguard mineral resources which are of economic or conservation value, and seek to ensure that workable mineral resources are not sterilised by other surface development which would prejudice future exploitation; and

- identify areas which should be protected from minerals development because of their intrinsic landscape, amenity, scientific or heritage value (including natural, built and archaeological heritage). There should be a general presumption against minerals development in such areas. However, where a designated area such as an Area of Outstanding Natural Beauty (AONB) covers expansive tracts of land, the LDP should carefully consider the scope for some minerals development that avoids key sites and that would not unduly compromise the integrity of the area as a whole or threaten to undermine the rationale for the designation.

Areas of Constraint on Minerals Development / Minerals Safeguarding Areas Designations

It is noted that the draft Proposals Map identifies Areas of Constraint on Minerals Development (ACMD), however no areas are identified on the map where minerals of economic or conservation value will be protected. The draft plan, as it stands, partially accords with the requirements of the SPPS in that areas to be protected from minerals development have been identified. Provisions with regards to safeguarding of mineral resources of economic value are lacking in any detail and no provision appears to have been made for ensuring that sufficient local supplies of construction aggregates can be made

available for use. This is particularly disappointing given the economic importance of the mineral resource within the district. In 2016, Quinn Building Products; Quinn Concrete and Quinn Cement had a total turnover of over £50 million attributable to aggregate derived businesses in Fermanagh.

Given the economic importance of the mineral and the importance of the associated manufacturing industry to the local economy as described above, the draft plan has failed to take a balanced view with regards to protecting the environment whilst capitalising upon mineral of economic value. The draft plan as it stands therefore conflicts with paragraphs 6.154, 6.155 and 6.156 of the SPPS.

Draft Policy MIN03 relates to Mineral Safeguarding Areas and states that

"*Mineral Safeguarding Areas (MSA's) will be defined around all mineral reserves/resources in Fermanagh and Omagh that are considered to be of economic or conservation importance. Surface development which would prejudice future exploitation of these mineral resources will not be permitted*".

In terms of policy clarification, Paragraph 4.87 of the draft plan states that detailed boundaries of MSA's will be defined in the Local Policies Plan which will also contain policy on how applications within MSA's will be treated. This approach of identifying ACMD's but not MSA's directly conflicts with the SPPS and does not adequately balance the need for mineral resources against the need to protect and conserve the environment (as required by Paragraph 6.154 of the SPPS).

It is noted that the impacts of draft policy MIN03 (identifying MSA's) has not been assessed within the Sustainability Appraisal (SA) of the LDP Draft Plan Strategy (Incorporating the Strategic Environmental Assessment). The SA states that:

"Options were considered for how Mineral Safeguarding Area would be identified and when this would happen. There is <u>insufficient information</u> to reliably identify MSAs at the PS [Plan Strategy] stage".

The SA goes on to state that:

"The full extent of mineral resources in the district (by type and value) is not known as it the requirement on a sub-regional level. Discussions with adjoining Councils and GSNI outlined how this knowledge gap could be potentially addressed in the medium to longer term".

Firstly, the first sentence of the quoted assessment does not make sense and clarification on the statement is requested. In any event, the approach taken in the SA is not considered to be acceptable. The inclusion of a draft policy which states that MSA's will be identified but does not identify the extents of such designations nor provide any detail on how applications will be treated whilst forging ahead with designations of areas of constraint is considered to be unsound. Furthermore, given the paucity of information with regards to MSA's, it is considered that an accurate SA cannot be undertaken for the LDP, without understanding and assessing the impacts that such a designation would have. At present, the plan and SA is totally devoid of any such assessment.

Given the paucity of information currently gathered by and available to the Council, attention is drawn to the public examination of the Magherafelt Area Plan 2015 and the subsequent PAC report on the objections to the draft Local Plan (January 2011) which states:

"It is difficult, if not impossible, to draw any conclusions in respect of the need to exploit the minerals of the District when there is incomplete and only ad hoc quantitative, and apparently no qualitative evidence, of the existing situation. The absence of a regional minerals plan and the piecemeal basis for forecasting regional reserves and demand is a significant gap in the information base[1]".

Given the above, the policies set out in the LDP with regards to ACMD's (draft policy MIN01) and MSA's (draft policy MIN03) are considered to have <u>failed</u> to meet the following soundness tests:

[1] Planning Appeals Commission, 'Examinations in Public into the Objections to the draft Magherafelt Area Plan 2015', Commissioners P Boomer, J de-Courcey & S G O'Hare, January 2011, at Page 81

Test C3- *Did the Council take account of policy and guidance issued by the department?*

The LDP has sought to allocate ACMD's but not identify any safeguarding areas. This is contrary to Paragraph 6.155 of the SPPS.

Test CE2- *The strategy policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base.*

It is not considered appropriate to allocate large areas as ACMD's without also safeguarding areas of economic or conservation value, particularly given that the plan itself acknowledges within it's SA that there is insufficient information to assess the impacts that such a designation would have. Without such information, the same is considered applicable to the designation of areas of constraint.

Identifying Areas most suitable for Minerals Development

Paragraph 6.156 of the SPPS states that:

"In preparing their LDP councils may also identify areas most suitable for minerals development within the plan area. Such areas will normally include areas of mineral reserves where exploitation is likely to have the least environmental and amenity impacts, as well as offering good accessibility to the strategic transport network".

No such areas have been identified within the Draft Plan. The Minerals Background Paper which accompanies the draft plan describes how County Tyrone is the main producer of sand and gravel in Northern Ireland, accounting for over 55% of the total output. The paper also describes how County Fermanagh is the largest producer of limestone in Northern Ireland, accounting for 68% of total output, followed by County Tyrone with an output of about 20%. Given that minerals can only be worked where they are found and their importance to the local and wider economy, it is considered imperative that areas most suitable for minerals development are identified within the LDP and it is a striking omission that these essential minerals are not provided for within the plan.

Given the extent of the existing mineral developments and related manufacturing and processing sites at the QBP sites to the South West of Derrylin, it is considered that this area within the district would be one which may be identified as most suitable for future minerals development.

The area benefits from numerous planning permissions for the extraction and processing of minerals as well as other manufacturing uses, linked to the mineral's end use. The planning history demonstrates that the principle of mineral extraction and processing is one which is acceptable in the area. Deposits of sand and gravel, sandstone and limestone are worked at the QBP quarry sites at Gortmullan and Doon Quarry. Given the variety of minerals extracted and the proximity of processing facilities, the area is considered to be an area where sustainable minerals development can continue to operate. QBP have confirmed that they would be willing to engage with FODC with respect to the specifics of the areas to be included in any future designation and policy wording.

Furthermore, it is proposed that the QBP site at Creevehill Road, Fivemiletown is also identified as an area which is suitable for minerals development. Given the existing, established nature of operations at the site, it is considered that the area is one which would be suitable for minerals. Again, QBP have confirmed that they would be willing to engage with FODC with respect to the specifics of the area to be designated and any future policy wording.

Given the above, the LDP is considered to have <u>failed</u> to meet the following soundness tests:

Test C3- *Did the Council take account of policy and guidance issued by the department?*

The LDP has not identified any areas most suitable for minerals development. This is contrary to Paragraph 6.156 of the SPPS.

Test CE1- *The DPD (Development Plan Document) sets out a coherent strategy from which its policies and allocations logically flow and where cross boundary issues are relevant. It is not in conflict with the DPD's of neighbouring Councils.*

Given that minerals can only be worked where they are found, that County Tyrone is the main producer of sand and gravel in Northern Ireland and County Fermanagh the largest producer of limestone, it is not a coherent strategy to identify large areas where mineral development will be constrained but not identify any areas which are most suitable for minerals development. It is a one sided and unbalanced approach.

No appraisal of draft policy MIN03 has been undertaken with no inclusion of areas most suitable for minerals development in the plan (and therefore the SA) whatsoever. In failing to identify or assess the sustainability for either designating MSA's or areas most suitable for minerals development, but choosing to identify and assess proposed ACMD's, the Council have failed to take a balanced policy approach for minerals development, seeking to assess and identify specific areas of constraint, with no provision for where mineral of economic value will be protected or sustainable minerals development encouraged.

Whilst it is unclear as to why such an approach has been taken, one clear shortcoming is the formation of a robust evidence base upon which the Council can consider, amongst other impacts, the socio-economic benefits of minerals development. The evidence base used in the preparation of the draft plan is flawed and fails to accurately identify the significant contribution that the industry makes to the local economy. The evidence presented in the minerals background paper, published alongside the draft plan significantly underestimates the value of the local minerals industry.

The Minerals Background Paper has been produced by the Council to draw together the evidence that has been used to form the LDP. Firstly, it is noted that under Section 3 of the Background Paper, reference is made to the policy set out in the Fermanagh Area Plan as to the need to protect the intrinsic value of Fermanagh's natural beauty and achieve a careful balance between extraction of minerals and preservation of the special environment. No mention of Policy M1 is provided which states that *"the Department will seek to balance the needs of the cement industry in south west Fermanagh with environmental protection".*

Specific detailing and naming of the cement industry in south west Fermanagh within the FAP is an acknowledgement of the important role that the industry has in the local and regional economy. This omission from the draft plan continues to reflect the one-sided approach and analysis to minerals development and ignores the importance of this particular industry which is not identified or discussed in greater detail in the background paper, despite it being explicitly named in existing policy.

Table 3 of the background paper provides figures for total tonnage of mineral extracted and the cumulative value to the local economy in 2016. A copy of the table is provided below.

Table 3 Mineral Extraction Rates in Fermanagh & Omagh District 2016

Fermanagh & Omagh Mineral Extraction	Total(£)	Total (tonnes)
Sand & Gravel	£943,026	276,755
Sandstone	£314,086	107,224
Limestone	£3,610,940	1,243,595
Basalt & Igneous Rock	£1,205,633	183,101
Other	£823	295
Total	**£6,242,208.00**	**1,1627,131**

Source: Department for Economy 2016

The information is sourced from DfE's Minerals and petroleum Branch. The information provided within the background paper is unclear and as a result it is difficult to understand the contribution that the minerals industry makes to the local economy. For example, from the background paper, it is unclear as

to how the "cumulative value to the local economy" as referenced in the total column above has been calculated.

The information as presented reflects the limited nature of the annual survey questions which consistently only requests figures for aggregates sales and values. For our client, this is predominantly an internal selling or transfer price and the true value is in the added value and the conversion of the raw aggregates into a finished product. Therefore, even if the tonnages collated are correct, the cumulative value is erroneous given that QBP; Quinn Concrete and Quinn Cement alone had a turnover of over £50 million attributable to its aggregate derived businesses in Fermanagh in the year 2016.

Further detail and evidence gathering is required in order to determine the true economic contribution of the minerals industry within the district. No indication is provided as to whether the total (£) provided above includes tax; levies; transportation or profitability. There is also no consideration as to the value-added products which are manufactured as a result of the mineral extracted. Furthermore, no information is provided as to how many operators the above values are attributable to.

No discussion or assessment is made of the indirect or residual impacts that the industry has on the local economy, with local contracting companies and suppliers reliant upon the primary extractive industry and the subsequent value-added processes.

Given the paucity of information, the evidence base is considered to be inadequate and inaccurate. As a result, the SA undertaken for the draft plan cannot be accurate or complete. At present, the policies presented within the draft plan do not accurately reflect the contribution of the local minerals industry and as such, the consequences of implementing the proposed policies are unknown.

Attention is also drawn to the evidence gathering exercise undertaken by FODC in 2015 whereby the Council requested data from industry operators with regards to extraction rates; remaining reserves; anticipated demand and expansion aspirations. No reference is made within the draft plan or the accompanying Minerals Background Paper as to why the information has not been used in formulating the policies contained within the plan. It is not sufficient to request information but choose not to reference it within the draft plan. The purpose of the information gathering exercise is to utilise the information gathered and if clarification or further information is required, that it is requested from the relevant stakeholders.

Paragraph 5.18 of the Background Paper states that there is a lack of information on the amount of permitted mineral reserves in the district. An understanding of permitted reserves is considered imperative in order to ensure that sufficient local supplies of construction aggregates can be made available for use within the local, and where appropriate, the regional market area and beyond, to meet likely future development needs over the plan period. This is a direct and specific requirement of the SPPS (Paragraph 6.155) and is not considered to be optional.

The draft plan provides for 5,190 new homes to be built in the district by the year 2030. A number of other infrastructure projects are also proposed to existing and new community (including education) services, employment, leisure and recreational facilities. All of the development proposed will require an adequate supply of aggregate products in order to deliver the aspirations envisaged in the Draft Plan.

As part of the process of collation of information and gaining an understanding of permitted reserves, annual mineral supply and requirements throughout the plan period will allow the Council to move towards a sustainable solution of providing landbanks, thus safeguarding the primary extractive industry and reliant industrial manufacturing sector.

The importance and purpose of landbanks to the local development plan system is specified in the Guidance on the Managed Aggregate Supply System[2] and is considered to provide the supply chain basis for all other forms of built development. The guidance provides the reasoning behind the need for, and purpose of, landbank provisions by mineral planning authorities.

[2] Department of Communities and Local Government 'Guidance on the Managed Aggregate Supply System, October, 2012

"Aggregates landbanks are principally a monitoring tool to provide Minerals Planning Authorities with early warning of possible disruption to the provision of an adequate and steady supply of land-won aggregates in their particular area. They should be used principally as a trigger for a Mineral Planning Authority to review the current provision of aggregates in its area, and consider whether to conduct a review of allocation of sites in its local minerals plan. This is of particular importance in the case of aggregates because of the scale and long term nature of the industry, as well as the length of time it may take from identifying a site to the commencement of extraction.

The landbank is the sum in tonnes of all permitted reserves for which valid planning permissions are extant. This includes current non-working sites but excludes dormant sites and "inactive sites" (set out under the Planning and Compensation Act 1991 and Environment Act 1995, for which a review is required which may need to include an Environmental Statement, before operation can commence or resume). The length of the landbank should be calculated using the expected provision (supply in response to demand) included in the local minerals plan, expressed on an annual basis.

Mineral Planning Authorities should seek to maintain a landbank of at least 7 years for land-won sand and gravel and 10 years for crushed rock, based on the past 10 years average sales. Longer landbank periods are often appropriate to address specific operational issues. Separate landbanks should be calculated for crushed rock and sand and gravel because they partly serve different markets and have different site infrastructure requirements. In general, quarries producing rock aggregates will need a longer security of reserves to justify capital investment in, for example, crushing equipment. However, a degree of flexibility is needed to allow for maintenance of production capacity when major sites have to be replaced or for scarce types or qualities of aggregate, or to allow for distance to market.

Landbanks are also capable of being used as a development management tool and as an indicator required to assess when new permissions should be considered within each Mineral Planning Authority Area. However, should Mineral Planning Authorities wish to use landbanks in this way, then each application for minerals extraction must be considered on its own merits, regardless of the length of the landbank. Mineral Planning Authorities should not be automatically granting planning permission because the landbank levels are under 7 or 10 years (as appropriate)[3]."

The soundness test also requires a coherent strategy from which its policies and allocations logically flow and where cross boundary issues are relevant. QBP have operations on both sides of the border in Cavan and Fermanagh with mineral deposits extending to areas on both sides of the national boundary. Neither the background paper nor the plan appears to have considered the supply requirements of County Cavan and how the mineral resources and manufacturing facilities in the FODC district serve markets in the Republic of Ireland.

Given the above, the LDP is considered to have <u>failed</u> in meeting the following soundness tests:

Test CE2- *The strategy policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base.*

It is clear from the above, that the policies proposed have not been based on an accurate or up to date evidence base. As such, the evidence base is not considered to be robust and the policies and allocations upon which it is based therefore cannot be considered realistic or appropriate.

Restoration

Draft Policy MIN02 relates to restoration and requires that all applications for mineral development to be accompanied by satisfactory restoration proposals. QBP has no issue with this requirement and accepts that this provision reflects regional policy. Draft Policy MIN02 also states that:

[3] Ibid at paragraphs 21 – 25; pages 6 and 7

"A restoration and aftercare bond or other financial provision will be required to ensure full restoration and reinstatement of the site should the developer fail to implement the previously agreed restoration plan."

This requirement is considered to be a fundamental departure away from existing regional policy, where no provision is made within any existing regional policy for the requirement of aftercare bonds or other financial provisions. A policy such as this has not undergone any sort of legislative scrutiny, nor has it been granted ministerial approval (or approval by permeant secretary as the case may be). The proposed policy results in a number of questions including; whether all developments will require a bond; how a bond would be calculated; the forum for delivering a bond- for example, would it be via a condition or planning agreement?

In considering whether a particular condition is necessary, the council must consider whether planning permission would be refused if that condition were not to be imposed. At present, minerals developments are granted within the district without the need to require a restoration bond. Therefore, it is unclear as to why it is proposed that restoration bonds are now required, when they have not previously been.

There is not considered to be any special or precise justification for the introduction of any restoration of aftercare bonds, indeed no evidence is provided as to why financial guarantees are considered necessary. Whilst Paragraph 5.3 of the background paper states that numerous abandoned quarries are visible throughout the district where workings have been abandoned, the paper states that most of these would have been closed in the 19th century. There is therefore no evidence that this is a problem generated by current operators.

Similarly, whilst the policy has been assessed as having a natural impact within the SA, it is clear that the payment of a restoration bond for all mineral developments will pose a financial constraint on operators.

Given that there is no mention of aftercare bond or other financial provision within any NI regional policy, existing practices from Great Britain may be considered in order to identify the usefulness of such a requirement. In England, Paragraph 48 of the national planning practice guidance (NPPG) states:

"A financial guarantee to cover restoration and aftercare costs will normally only be justified in exceptional cases".

The NPPG states that such cases may include: very long-term new projects where progressive reclamation is not practicable, such as an extremely large limestone quarry; where a novel approach or technique is to be used, but the minerals planning authority considers it is justifiable to give permission for the development; or where there is reliable evidence of the likelihood of either financial or technical failure, but these concerns are not such as to justify refusal of permission.

The policy as proposed within the Draft Plan, differs significantly from this approach by appearing to require financial contributions for all development. Given the above, the proposed policy approach is not considered to be consistent with regional policy, nor in the absence of any such policy, consistent with policy in Great Britain. As such, the LDP is considered to have failed in meeting the following soundness tests:

Test CE2- *The strategy policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base.*

There is not considered to be any special or precise justification for the introduction of any restoration of aftercare bonds, indeed no evidence is provided as to why financial guarantees are considered necessary. It is acknowledged by the Council in its own background paper that where workings have been abandoned, that most of these would have been closed in the 19th century. There is therefore no evidence that this is a problem generated by current operators.

Test C3- *Did the Council take account of policy and guidance issued by the department?*

There is no provision within regional policy stating that restoration and aftercare bond or other financial provision should be required for minerals development.

Conclusions

Quarryplan Ltd has been instructed by its client, Quinn Building Products Ltd (QBP), to submit a representation to the Fermanagh and Omagh District Council (FODC) Local Development Plan (LDP) Draft Plan Strategy. Having assessed the policies and allocations proposed within the draft plan, it is considered that a number of these conflict with regional policy.

It is noted that the draft Proposals Map identifies Areas of Constraint on Minerals Development (ACMD), however no areas are identified on the map where minerals of economic or conservation value will be protected nor have any areas been identified which would be most suitable for minerals development.

The policies within the draft plan have not been based on a robust evidence base and the Sustainability Appraisal for proposed policies is inaccurate and incomplete. The Council appear to have ignored information requested and provided by industry operators and relied upon information from DfE that is not appropriate for establishing the additional value that can be applied to mineral resources and the subsequent wider contribution to the local and regional economy.

As a result of the above, the draft plan, in its current format, fails tests CE1, CE2 and C3 and therefore the plan is considered to be unsound.

I trust the above is self-explanatory, however if you require any further information please do not hesitate to get in contact using the details above.

Yours faithfully,

Chris Tinsley MRTPI
Senior Town Planning Consultant
Quarryplan Limited