



## Fermanagh & Omagh Draft Plan Strategy - Counter Representations Form

Hard Copies of the Draft Plan Strategy, all Representations received and our 'Guidance note for Making Counter Representations' are available for inspection during normal opening hours at the Council's offices at: 7 Shore Road, Enniskillen, BT74 7EF; Strule House, 16 High Street, Omagh BT78 1BQ; The Grange, Mountjoy Road, Lisnamallard, Omagh, Co Tyrone, BT79 7BL and; Townhall, 2 Townhall Street, Enniskillen, Co Fermanagh, BT74 7BA or may be viewed at <https://www.fermanaghomagh.com>

### How to make Counter Representations

You can make counter representations by completing this form, by email to [developmentplan@fermanaghomagh.com](mailto:developmentplan@fermanaghomagh.com) or by post to: Local Development Plan Team, Strule House, 16 High Street, Omagh BT78 1BQ.

For further assistance contact: [developmentplan@fermanaghomagh.com](mailto:developmentplan@fermanaghomagh.com) or Tel: 0300 303 1777.

### SECTION 1. Contact Details

Agent or Personal Submission - Are you submitting on behalf of someone or in an individual capacity?

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

**First Name**

[REDACTED]

**Last Name**

[REDACTED]

**Job Title** (Where relevant)

Director

**Organisation** (Where relevant)

One2One Planning

**Address**

[REDACTED]

**Postcode**

[REDACTED]

**Telephone Number**

[REDACTED]

**Email Address**

[REDACTED]

**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).

<b>First Name</b>	Station Green Limited
<b>Last Name</b>	Click or tap here to enter text.
<b>Job Title</b> (Where relevant)	Click or tap here to enter text.
<b>Organisation</b> (Where relevant)	Click or tap here to enter text.
<b>Address</b>	Click or tap here to enter text.
<b>Postcode</b>	Click or tap here to enter text.
<b>Telephone Number</b>	Click or tap here to enter text.
<b>Email Address</b>	Click or tap here to enter text.

## **SECTION 2. Counter Representation**

Have you submitted a representation to the council regarding the Draft Plan Strategy?

**Yes**                       **No**

If yes, please provide the Reference Number of your representation and a summary of the issue raised in your representation below.

Click or tap here to enter text.

**Details of Your Counter Representation**

Please provide the reference number of the site-specific representation to which your counter representation relates to:

DPS 011 from Elm Grange

Please give reasons for your counter representation having particular regard to the soundness test(s) identified in the above referenced site-specific representation. Please note that your counter representation must not propose any new changes of the draft Plan Strategy.

Enniskillen Town Centre Boundary (TCR 01), removal of Lands at Station Green Site/Holyhill Car park as Identified on Map with DPS 011 and the Evidence Base within the Nexus Report in support of requested modification

Request for Lands at Cornagrade Road to be identified as a District Centre with associated site specific policy

For Detail of Counter Objection See attached sheet

### **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 19 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015, the council must make a copy of any counter representation available for inspection. The Council is also required to submit the counter 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/](http://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 Publish Response**

The Council is required by law to publish your representation and make it available for inspection. Unless otherwise stated by yourself, this will include your name and postal address. Your personal telephone number, personal email address and signature will not be published.

If you do not wish for your name and postal address to be published please tick the box below.

**Please do not publish my name and postal address**

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.

**Signature**

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**Date**

24<sup>th</sup> June 2019



June 2017

## **Counter Objection to DPS 011 from Elm Grange to Omagh and Fermanagh Draft Plan Strategy as it relates to Enniskillen**

### **Response on Behalf of Station Green Limited**

#### The Elm Grange Objection Ref DPS 011

The objection on behalf of Elm Grange Ltd contains a representation specific to my client's lands at Station Green, Enniskillen. At Section 4 of their representation titled 'Modifications to the draft plan strategy' Paragraph 38 they request:

*Plan deletion<sup>1</sup> - Reduce the town centre boundary*

*38) The town centre boundary should be reduced to remove the lands at the former thompsons feed Yard as illustrated at Appendix 2.*

This map shows the site (and copied for the benefit of Council at Annex 1 of this submission) to the rear/east of Holyhill Car Park removed from the town centre. This map is taken to be unambiguous and the scope of their objection.

Inaltus raise the inaccuracies in the evidence base in support of this request for deletion and in support of the addition of a site specific policy for a District Centre at Cornagrade Road. The permission associated with the identified site as per Appendix 1 has been incorrectly noted in the Nexus report at Table 26c and 26g '*extant Comparison Goods Commitments in Enniskillen*' at 403sqm net. 4693sqm gross floorspace was permitted over three open class units and the net figure recorded in the Nexus tables should record its correct size and format and appropriate turnover figures.

While the matter of commitments requires correction for accuracy, it does not result in the Nexus Report being unsound under CE2 given the policy TCR01 and associated designations are drafted in recognition of the limited capacity in the town.

Under the section 'Observations on the evidence base' at paragraph 13F they refer to a planning permission achieved by my client L/2012/0452/F and referenced the site as the 'Former Thompson Feed Yard in the Nexus report'. I note this site is to the front of the wider Station Green site which is not within the area that the applicants seek exclusion of under Section 4 and as such it remains a town centre site.

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<sup>1</sup> Paragraph 38

Why are the Requested Modifications in DPS 011 Unsound?

I set out below why my clients disagree with both requested changes on the basis of soundness and sustainability of the draft plan strategy in response to the question:

*Please give reasons for your counter representation having particular regard to the soundness test(s) identified in the above referenced site-specific representation.*

**Enniskillen Town Centre Boundary (TCR 01) and Removal of Part of the Station Green Site from the Town Centre**

As per paragraph 17 page 8 of their representation Inaltus note that:

*The Council has not proposed any increase in the town centre boundary, despite the growth required in retail terms as found by Nexus. The decision not to increase the size of the town centre means Enniskillen will be left with the same town centre that was adopted in 1997. All the opportunity sites that can be developed have already been developed as they are in the policy areas.*

It then notes how the *'ability to expand the town centre is heavily constrained by the lakes and the topography of the town with no scope to expand the town centre to the south, north and west, due to the lakes. To the east, any expansion of the town centre will impact on residential development and will impact on traffic congestion around the Dublin Road'* (underlining my emphasis).

In the extant plan my client's lands are to the east of the town centre.

At paragraph 20, they refer again to 'clear physical constraints that prevent expansion of the town centre and will prohibit the introduction of new retailers and constrain competition'. Commentary is required on two aspects:

- Firstly the town centre is not being expanded to the east, the boundary is unchanged in this area from the extant Fermanagh Area Plan; What Inaltus are seeking is a reduction in the size of the town centre rather than the removal of expansion lands;
- The second relates to the physical constraints to the east of the centre that prevent expansion. The two referred to by Inaltus are an impact on residential development and an impact on traffic congestion around the Dublin Road. It is unclear which housing zonings would not be delivered (with H24 and H25 closest to the site already established) or why traffic congestion on the Dublin Road (as opposed to any other town centre traffic route) would be a reason for an existing town centre sites removal.

At paragraph 21 the objector refers to how the report has not assessed demand for retailers not already present in Enniskillen. They refer to the town not having retailers such as Home Bargains, the Range, Matalin and Primark. As a reaction to the lack of presence of retailers they suggest:

- There is a need for a district centre at Cornagrade Road;
- That part of my clients' site at Station Green should be removed from the town centre.

## **Station Green, Holyhill Link Road**

In the first instance it is noteworthy that there is no reference in any representation to the front portion of Hollyhill car park which has permission for 3361sqm of open class retail (which also includes offices and residential uses (and unchallenged as proposed in the DPS).

At paragraph 30 the objector writes that one of the tests of soundness CE2; requires that allocations are realistic and appropriate, suggesting removal of the site from town centre on the basis that it has repeated planning permissions granted for retail development. A history of retail permissions is also applicable to the Unipork site, yet the representation seeks to rely on them in support of its request for a district centre in a contradictory manner to its approach to their importance for the site identified in their representation.

Between Paragraphs 31 and 33 the representation provides six reasons why they consider the Hollyhill Car Park site is not viable as set out below:

### Lack of Car Parking Within The Premises Control?

At Para 31 the author indicates that the site does not have car parking and would have to rely upon the parking in front owned by the Council and refers to their enquiries indicating that retailers have found the site to be unviable as parking could not be provided.

No evidence of these enquiries is provided and there is therefore no opportunity to test who the retailers are that would consider a town centre site with immediately adjacent ample car parking unsuitable. This is amplified at Para 33 wherein the objector refers to the site having no car parking that retailers will have control over. Exclusive use of car parking adjacent to a town centre store is not a phenomena of town centre trading.

The permission at Station Green/Hollyhill Car Park is for open class consent, with parking immediately adjacent and enables investment in that car park for upgrade works to the benefit of the entire town centre. Comparison retailers on town centre sites often do not have parking immediately adjacent. It is unrealistic that they would expect to have exclusive parking for their use only; the normal practice is that their patrons will use the adjacent car park (which is available at Station Green directly at the front doors) and if it is not available they would then either use the existing town centre provision or expect customers to use public transport to access the town centre. The availability of public transport provision and opportunity for shared trips with other activities including work, administration, community, leisure and education trips is why town centres are promoted in the SPPS as the most sustainable choice

Any change to the plan which removes a sustainable town centre location to facilitate a site 1km from the town centre<sup>2</sup> would be contrary to the soundness tests of Consistency under C1 in that it does not take account of the sustainability objectives in the RDS and C3 in respect of the SPPS.

The DPS as drafted is sound in respect of CE3 as it seeks to provide for future retail users on a town

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<sup>2</sup> As per Inaltus Para 22

centre site and appreciates that the lack of exclusive control over adjacent parking is not a reason to discount a site. As an example of why the sites inclusion is appropriate I have included a list of the other Primark stores in Northern Ireland (one the traders identified by Inaltus as seeking space in Enniskillen) at Annex 2. All their stores in Northern Ireland trade without parking in their exclusive control; this is not a basis for exclusion.

The Permission has not commenced?

Paragraph 32 they refer to '*having some doubt that the permission could have been technically started*'. That doubt is misplaced, the site was started prior to expiry nor would there be any reason why a further permission would not be granted if submitted given there is no material change in circumstance for a town centre site post SPPS.

The site requires extensive demolition?

The site was cleared some years ago.

Land remediation works?

Again, this assertion is misplaced, no land remediation works are required within the permission.

Backland Development hidden from Key Roads?

The site sits within existing retail provision at Holyhill Road and Forthill Street, beside Lidl, Dunnes and the Railway Junction Retail Park with pavements connecting it to each. It is an established and well patronised area with the Holyhill car park immediately adjacent also visible to town centre users.

Unlikely that any retailer will be able to secure a significant market share from Asda and Tesco or other Town Centre Retailers?

In respect of Tesco and Asda ,I agree that it is unlikely to attract a significant share from either retailer but not because the site is inferior as claimed but because it is not exclusively a convenience site. The consent is for open class retail and its current configuration is also suited to a comparison retailer. It is capable of configuration as a superstore in the event such a large scale convenience retailer capable of competing with Asda and Tesco did decide to locate in Enniskillen or as a mix of retail types be that convenience, comparison or mixed retailers.

In summary, none of the reasons suggested for why the site is unviable stand up to scrutiny. The non-delivery of the site to date has been a consequence of market conditions with low consumer confidence post-recession and now the Brexit uncertainty effecting the economy in Northern Ireland and future cross border trading generally has made retailers/National Retailers reluctant to invest in expansion over the previous months. Continuation on site can continue at any time.

The site is viable and available for retailers seeking to locate in Enniskillen.



**Other Reasons why the inclusion of the site within the town centre is consistent with the tests of soundness including guidance issued by the Department (C3), why it is a realistic allocation (CE2) and why it is reasonably flexible to deal with changing circumstances (CE4).**

Retail is not the only land use suitable on a Town Centre Site. While the area proposed by Elm Grange for removal from the town centre (at Annex 1) has extant permission for retail that does not equate to the site being only suitable for retail. A town centre boundary is designed to provide for all aspects of town centre uses, including business, administration, retail, offices, cultural and community and commercial leisure functions including those to encourage the night time economy. The site has previously been identified as a development opportunity site in the Enniskillen Masterplan and regardless of whether the extant permission is built out, its continued inclusion within the town centre boundary is justified on the basis of the other range of uses that it could also facilitate.

It is also noted that the objector makes no request as to how the site is to be reallocated, omitting the requirement for clear mechanisms for implementation and monitoring under CE3.

The scale of the requested area to be removed from the town centre is just 35% of the space that the Unipork site was previously approved for<sup>3</sup>. The scale of the Station Green site is more in line with the evidence base in the Retail Capacity Assessment as required under CE2. The sites scale and available parking could be used for a variety of options all of which would be of benefit to the town centre but unsustainable if located at the significantly larger Unipork site.

**District Centre and the Suggested Cornagrade Road Site**

My clients also object to the changes to the DPS seeking the district centre designation as per the map and its associated policy introduction.

Firstly, the suggested policy for the District Centre is worded to refer to local convenience shopping needs of the area (underlining my emphasis). This could be considered in practical application to only show a need for the development (bypassing the current SPPS para 6.276 requirement that proposals within district centres must be complimentary to the role and function of the town centre and demonstrate no adverse impact on the town centres).

As worded it also bypasses the sequential test for any type of retailing for town centre and edge of centre locations and assumes that the proposed district centre location is accessible to sustainable transport choices in line with the last remaining option. As drafted it contains no need or impact test for comparison retailing.

The policy as suggested is entirely inappropriate and in effect would enable any convenience provision providing need can be shown; the only test for comparison retail would be can it be accommodated within the PRC. This fails the test of soundness based on consistency with the RDS

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<sup>3</sup> Para 23 refers to the 2012 permission for 3,858sqm convenience and 9,473sqm comparison floorspace; in total 13,331sqm. The permission on the site which Inaltus Appendix 2 states it is for 4693sqm of open class retail.

and the SPPS and is ignores the evidence base in the retail capacity assessment.

The case made is that a district centre 1km north of the town centre is needed because the northern area of the town has a limited retail offer and they note the development site is large enough to provide for a district centre, including a large food superstore which would be ideally placed to relieve pressure off Tesco and Asda and the traffic congestion around Gaol Square.

The reference to the potential to provide for a 'large food superstore' is not surprising given the basis in policy of a District Centre is convenience rather than comparison retail. The sustainable choice of location for comparison retail is the town centre and a new District Centre which would rely on comparison retail is unsustainable and inconsistent with the RDS and SPPS on that basis.

The stores which the objector refers to as being absent from the town are all comparison retailers (or mixed in the case of Home Bargains). No evidence is offered of a convenience retailer currently seeking a large food superstore in Enniskillen of the scale required to justify a new district centre designation. Enniskillen already has Tesco, Asda, Lidl, M&S and Iceland as well as smaller convenience stores and independent retailers. The only way the *'pressure could be relieved from Asda and Tesco'* is by another store of similar size seeking to locate in the town that is capable of substantial diversion in accordance with the principle of 'like competes with like'.

Inaltus offer no evidence of such a retailer seeking to locate in the town and being unable to find space. Their 2012 permission contained 3,958sqm of convenience space- My clients ask if there was demand from such a retailer then why did none take the opportunity to build at the Unipork site when it was available?

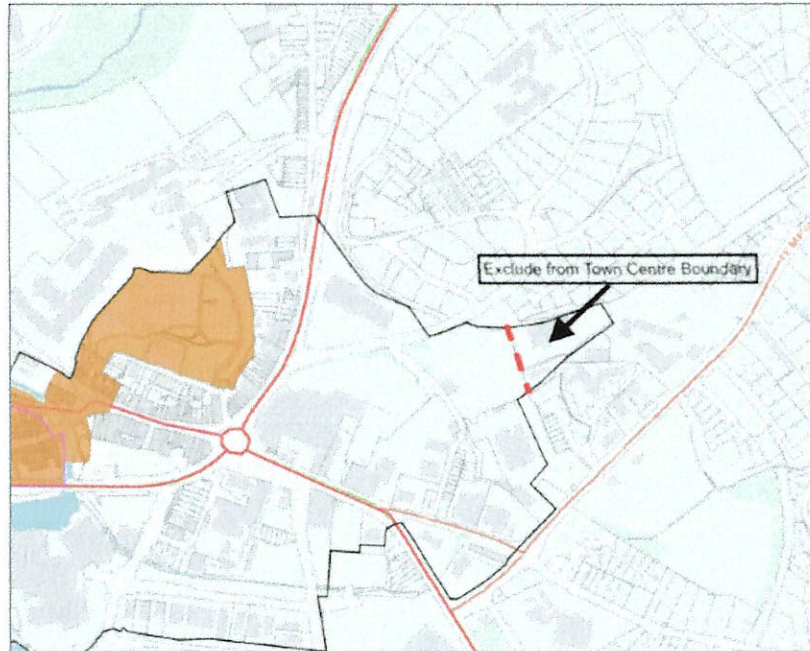
In the current retail market trends are towards reducing store sizes as people shop for less but more often. The town centre is better placed to fit with current market patterns and there is no basis of a district centre being required, realistic or appropriate for Enniskillen under the soundness test CE2.

In summary, a new District Centre at Cornagrade Road is unsustainable and would fail the tests of soundness including consistency with the SPPS and regional policy in the RDS. The current town centre boundary is the most sustainable location to accommodate any additional retail growth and the town centre boundary as identified by Council in the DFS correctly includes lands within its boundary that are preferable for such provision in terms of the RDS, SPSS and consistent with the evidence base in their retail capacity report. I trust you will take these matters in to account in the future consideration of the representation requesting changes to the DPS as it relates to Enniskillen town centre or a District Centre at Cornagrade Road.

Appendix 1 – Extract of Objection DPS 011 Showing Requested Area of Exclusion to Rear/East of Hollyhill Car Park from Enniskillen Town Centre

Local Development Plan  
Draft Strategy Representation

INALTUS



Appendix 2 – Primark Stores in Northern Ireland Without Car Parking Within the Retailers Control

Primark	Location	Exclusive Parking	Adjacent Parking
Belfast	Royal Avenue	No	Closest parking is paid parking at Castlecourt
Ballymena -	Tower Centre	No	Closest parking is to rear of Centre and is a paid car park
Londonderry	Newmarket Street	No	The closest parking is paid within Foyleside Shopping Centre
Lisburn	Bow Street Mall	No	The closest parking is paid within Bow Street Mall
Newry	Buttercrane	No	The closest parking is communal within the Buttercrane Centre
Newtownabbey	Abbey centre	No	Closest parking is communal within Abbeycentre. Charging for stays over 4 hours
Newtownards	Ards Shopping Centre	No	Closest parking is within the Centre car park.