



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

**Self-assessment of Legal Compliance in respect of Fermanagh and Omagh Local Development Plan
2030 – Draft Plan Strategy**

December 2020

Self-assessment of Legal Compliance in respect of Fermanagh and Omagh Local Development Plan 2030 – Draft Plan Strategy

This self-assessment of legal compliance has been prepared to focus on compliance with The Planning (Local Development Plan) Regulations (2015). This self-assessment is structured around the requirements of the Regulations and includes an explanation of how the council has met these tests and provides a signpost to relevant documents elsewhere within our document list. This self-assessment should be read alongside the Soundness Checklist (Ref: FODC401).

Part of LDP Regulations and Requirement	Regulation	Explanation of Compliance
<u>Part 2 - Preparation of Timetable</u> 5. The council must, in the preparation of the timetable, consult the planning appeals commission and such of the consultation bodies as the council considers appropriate.	5	5. The council has consulted with the Planning Appeals Commission (PAC) on the preparation of the timetable and subsequent revisions. Relevant correspondence with the PAC can be found at Ref. FODC 415.

<p><u>Part 2 – Content of Timetable</u></p> <p>6. This paragraph applies where the council proposes to prepare a local development plan. (2) The timetable must include indicative dates for—</p> <p>(a) each stage of the preparation of the local development plan including indicative dates for— (i) publication of the preferred options paper, (ii) publication of the plan strategy and publication of the local policies plan, and (iii) adoption of the plan strategy and adoption of the local policies plan; and</p> <p>(b) the carrying out of the appraisal under sections 8(6)(a) and 9(7)(a) and the preparation of the report on the findings of the appraisal under sections 8(6)(b) and 9(7)(b).</p>	<p>6</p>	<p>6 (a) and (b)The Local Development Plan (LDP) Timetable, and subsequent revisions, sets out the key stages and indicative timescales in the process to produce the FODC Local Development Plan. The LDP Timetable includes indicative dates for:</p> <ul style="list-style-type: none"> - publication of the preferred options paper (POP); - publication of the plan strategy (PS) and the local policies plan (LPP); - adoption of the PS and adoption of the LPP; - the carrying out the sustainability appraisal (SA) and preparation of the report on the findings. <p>The first LDP Timetable was agreed in May 2016 and subsequently revisions were agreed during July 2018, February 2020 and November 2020. The Timetable and subsequent revisions can be found at FODC406, FODC407, FODC408 and FODC416,</p>
<p><u>Part 2 - Agreement of Timetable</u></p> <p>7. (1) The timetable must be—</p> <p>(a) approved by resolution of the council prior to submission to the Department for its agreement, and</p> <p>(b) submitted to the Department.</p> <p>(2) The Department must respond within four weeks of receipt of the timetable, unless it has, before the expiry of that period, notified the council that it requires more time to consider the timetable.</p>	<p>7</p>	<p>7(1) The first LDP Timetable was approved by resolution of council on 5th April 2016, prior to submission to the Department on 11th April 2016.</p> <p>7(2) The Department responded to the Timetable on 5th May 2016. Relevant documents can be found at FODC414.</p> <p>7(4) The POP was published in October 2016.</p> <p>7(5) Subsequent revisions to the LDP Timetable were approved by resolution of the council and were also agreed by the Department,</p> <p>All relevant documents can be found at FODC414 and FODC801-823.</p>

<p>(3) If, before the end of the period specified in paragraph (2), the Department has failed to respond to the receipt by it of the timetable, it will be deemed to be agreed at the end of that period.</p> <p>(4) Subject to paragraph (3) until such time as the Department agrees the timetable the council must not, in the preparation of a local development plan, take any steps under regulation 10 to advertise its preferred options paper.</p> <p>(5) Paragraphs (1) to (4) apply to the revision of a timetable as they apply to its preparation.</p>		
<p><u>Part 2 - Availability of Timetable</u></p> <p>8. (1) Where a timetable is agreed or deemed to be agreed under regulation 7, the council must—</p> <p>(a) make a copy of the agreed timetable available for inspection during normal office hours at— (i) its principal offices, and (ii) such other places within its district as it considers appropriate;</p> <p>(b) give notice by local advertisement of the following— (i) that the timetable is available for inspection, (ii) the place and times at which it can be inspected; and</p>	<p>8</p>	<p>8(1)(a-c) Following agreement of the first LDP Timetable, it was made available for inspection during normal office hours at the Grange and County Hall Omagh, and at County Buildings and the Town Hall Enniskillen. The local advertisement informing the public of this was published in the local newspapers for two weeks during May 2016. The local advertisement can be view at FODC413. The Timetable was also placed on the council website at the time of advertisement.</p> <p>Subsequent revisions to the LDP Timetable were also advertised and made available for inspection and placed on the council website in the same manner. The local advertisement details in relation to the 3 subsequent Timetable revisions can also be viewed at FODC413.</p>

(c) publish the timetable on its website.		
<p><u>Part 3 – Preparation of the Preferred Options Paper</u></p> <p>9. (1) Before a council complies with regulation 11, it must, for the purpose of generating alternative strategies and options, engage the consultation bodies.</p> <p>(2) In preparing the preferred options paper the council must take into account any representation received from the consultation bodies.</p>	9	<p>9(1) Prior to the preparation of the POP, all consultation bodies were consulted and requested to provide relevant information/identification of issues to inform the development of options. In addition, there was engagement with the Project Management Group in developing preferred options and assessment for sustainability. A sample letter sent to consultation bodies seeking information/identification of issues pre-POP can be found at Volume 5 FODC504.</p> <p>9(2) The council has taken account of all representations received from consultation bodies arising from the pre-POP engagement outlined above.</p>
<p><u>Part 3 – Availability of the Preferred Options Paper</u></p> <p>10. Before a council prepares a development plan document it must—</p> <p>(a) make the following documents available for inspection during normal office hours at the places referred to in paragraph (b)—</p> <p>(i) a copy of the preferred options paper,</p> <p>(ii) such supporting documents as in the opinion of the council are relevant to that paper,</p> <p>(iii) a document containing a statement indicating the period specified by the council under regulation 11(2) as the period within which representations on the preferred options paper may be made,</p>	10	<p>10(a - e) Consultation bodies and the public were consulted on the POP on 3rd October 2016. A sample copy of letter issued to consultation bodies etc. and be found at Volume 5 FODC505.</p> <p>The publication of the POP was advertised in the local newspapers on 28th and 29th September 2016 and 5th and 6th October 2016. The public notice states that the POP and accompanying Sustainability Appraisal would be available to inspection during the period 9.30am-4.30pm at the Grange and Public Services Centre Omagh and the Town Hall and County Hall Enniskillen. Copies of these public notices can be found at Volume 4 FODC413.</p> <p>The POP was published on 3rd October 2016 and the public were informed that all comments on it should be received no later than 5pm on 28th November 2016. The address for submission of representations to be sent was also provided. The public notice also provided the title of the document and a brief description of its content and purpose.</p>

<p>(iv) notice of the address to which representations are to be sent.</p> <p>(b) the places referred to in paragraph (a) are—</p> <p>(i) the council's principal offices, and (ii) such other places within the council district as the council considers appropriate;</p> <p>(c) send to the consultation bodies the information set out at paragraph (a);</p> <p>(d) give notice by local advertisement of the following—</p> <p>(i) the title of the local development plan,</p> <p>(ii) a statement of the fact that the preferred options paper is available for inspection and the places and times at which it can be inspected,</p> <p>(iii) a brief description of the content and purpose of the preferred options paper, and</p> <p>(iv) details of how further information on the preferred options paper may be obtained;</p> <p>and</p> <p>(e) publish on its website—</p> <p>(i) the preferred options paper,</p> <p>(ii) such supporting documents as in the opinion of the council are relevant to the preferred options paper, and</p>		<p>The POP and all supporting information, including details of when representations may be made and where they could be sent to, were all placed on the council website at the same time as the local newspaper advertisement.</p>
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<p>(iii) the document mentioned in paragraph (a)(iii) and notice mentioned in paragraph (a)(iv).</p>		
<p><u>Part 3 - Public consultation on the preferred options paper</u> 11. (1) Any person may make representations about a council's preferred options paper.</p> <p>(2) Any such representations must be— (a) made within a period which the council specifies, and (b) sent to the address specified pursuant to regulation 10(a)(iv).</p> <p>(3) The period referred to in paragraph (2)(a) must be a period of not less than 8 weeks or more than 12 weeks starting on the day on which the council complies with regulation 10(a).</p> <p>(4) A council must take account of any representations made in accordance with paragraph (2) before it prepares a development plan document.</p>	<p>11</p>	<p>11(1-4) Consultation on the POP took place on 3rd October 2016 and people were given 8 weeks to make representations. All representations to the POP have been considered prior to preparation of the DPD and that consideration is contained in the Public Consultation Report (February 2017) and Consideration of Representations to the Preferred Options Paper (October 2018).</p> <p>A sample copy of letter issued to consultation bodies etc. and be found at Volume 5 FODC505.</p> <p>Copies of public notices, etc. can be found at Volume 4 FODC413.</p> <p>All representations made were taken into account and this consideration can be found in the Public Consultation Report (February 2017) and in the Consideration of Representations Report to the Preferred Options Paper (October 2018) which can be found at Volume 7 FODC705 and FODC706.</p>
<p><u>Part 4 – Form and Content of a Development Plan Document</u> 12. (1) A development plan document must contain—</p>	<p>12</p>	<p>12(1-3) The draft Plan Strategy is found at FODC101. The DPD is clearly titled as a Draft Plan Strategy for the Local Development Plan with the name of the district council. The document also states the timeframe of the plan is 2030 and its publication date as the draft Plan Strategy as being October 2018. It does not have an adoption date stated as it has yet to be adopted.</p>

<p>(a) a title which must give the name of the council district for which the development plan document is prepared and indicate whether it is a plan strategy or a local policies plan, and</p> <p>(b) a sub-title which must indicate the date of the adoption of the development plan document.</p> <p>(2) A development plan document must contain a reasoned justification of the policies contained in it.</p> <p>(3) Those parts of a development plan document which comprise the policies of the development plan document and those parts which comprise the reasoned justification required by paragraph (2) must be readily distinguishable.</p>		<p>It sets out the council’s objectives in relation to the development and use of land in its district. It contains strategic policies for the implementation of those objectives and a proposals map to illustrate policies or proposals spatially. For example, proposed Areas of Constraint on Minerals Development; proposed Areas of High Scenic Value. The prescribed notice and availability for inspection of the DPD for public consultation has been undertaken.</p> <p>The PS sets out a context and justification at the beginning of each topic policy grouping. Policies are clearly set within a box, below which is clarification of each policy where appropriate. In Part One, paragraphs 6.21 to 6.25 explain the rationale for the strategic allocation of land for housing in conjunction with draft strategic policy SP03. Likewise, the strategic allocation of land for industry and business is set out in paragraphs 6.26 to 6.27 and the accompanying draft strategic policy SP04.</p>
<p><u>Part 4 – Proposals Map</u></p> <p>13. (1) A development plan document must contain a map or maps, (to be known as “the proposals map”), describing the policies and proposals set out in the development plan document so far as practicable to illustrate such policies or proposals spatially.</p> <p>(2) The proposals map is to be sufficiently detailed so as to enable the location of proposals for the development and use of land to be identified.</p>	<p>13</p>	<p>13(1-2) The dPS includes a plan strategy maps booklet which contains Proposals Map 1, 2 and 3. These can be viewed at Volume 1 FODC106, FODC107 and FODC108.</p> <p>The proposals map illustrates the relevant policies and proposals within the dPS and the key on the map explains the policies and proposals illustrated on it, which includes for example, proposed Areas of Constraint on Minerals Development and proposed Areas of High Scenic Value.</p>

<p>(3) In the case of any contradiction between the written statement and any other document forming part of a local development plan, the written statement shall prevail.</p>		
<p><u>Part 4 – Additional Matters to be taken into account.</u></p> <p>14. (1) The other matters that the council must take into account in preparing a local development plan are—</p> <p>(a) the objectives of preventing major accidents and limiting the consequence of such accidents,</p> <p>(b) the need— (i) in the long term to maintain appropriate distances between establishments covered by the Directive and residential areas, buildings and areas of public use, major transport routes as far as possible, recreational areas and areas of particular natural sensitivity or interest, and (ii) in the case of existing establishments, for additional technical measures in accordance with Article 5 of the Directive so as not to increase the risks to people.</p> <p>(2) In this regulation— (a) the Directive means Council Directive 96/82/EC on the</p>	<p>14</p>	<p>14(1) The Vision and Strategic Objectives as set out in the LDP recognise the importance of a healthy and safe environment and this vision and strategic objectives should contribute to the objectives of preventing major accidents and limiting the consequence of such accidents. These are matters that will also be considered further when preparing the Local Policies Plan, and particularly when zoning land for a specific use. There is currently one COMAH site within the district. The council will continue to consult with the relevant authorities regarding development proposals that may impact on such sites.</p>

<p>control of major-accident hazards involving dangerous substances, and (b) expressions used in paragraph (1) and in the Directive have the same meaning in that paragraph as in the Directive.</p>		
<p><u>Part 5 - Availability of a development plan document</u></p> <p>15. Before submitting a development plan document to the Department under section 10 the council must—</p> <p>(a) make the following documents available for inspection during normal office hours at the places referred to in paragraph (b)— (i) a copy of the development plan document, (ii) a copy of the sustainability appraisal report under section 8(6)(b) or 9(7)(b), as the case may be, (iii) such supporting documents as in the opinion of the council are relevant to the preparation of the local development plan, (iv) a document containing a statement indicating the period within which representations on the development plan document may be made, and (v) notice of the address to which representations can be sent;</p> <p>(b) the places referred to in paragraph (a) are— (i) the council’s principal offices, and (ii) such other places within the council district as the council considers appropriate;</p>	<p>15</p>	<p>15(a – e) The prescribed notice and availability for inspection of the DPD for public consultation has been undertaken.</p> <p>The dPS was advertised in the Belfast Gazette on 19th October 2018 and the local newspapers on 17th, 18th, 24th and 25th October 2018. These public notices can be viewed at FODC413.</p> <p>The dPS and supporting documents were made available for inspection during normal office hours at the Grange and Strule House Omagh and the Town Hall Enniskillen.</p> <p>The public notice indicated that the dPS, sustainability appraisal and supporting documents would be available for consideration from Friday 26th October 2018 for a period of 8 weeks until Friday 21st December 2018. The address for submission of representations to be sent was also provided. The public notice also provided the title of the document and a brief description of its content and purpose.</p> <p>The council notified consultation bodies on 25 October 2018 giving details of the consultation period (8 weeks), the availability of all documents and how/when to make any submission. A sample notification letter can be found at FODC507.</p> <p>The dPS and all supporting information, including details of when representations may be made and where they could be sent to, were all placed on the council website at the same time as the local newspaper advertisement.</p>

<p>(c) send to the consultation bodies a copy of the documents set out in paragraph (a); (d) give notice in the Belfast Gazette and by local advertisement of the following— (i) the title of the development plan document, and (ii) a statement of the fact that the development plan document is available for inspection and the places and times at which it can be inspected; and (e) publish on its website— (i) the development plan document, (ii) such of the supporting documents as in the opinion of the council are relevant, and (iii) the notice mentioned in paragraph (a)(iv).</p>		
<p><u>Public consultation on a development plan document</u></p> <p>16.(1) Any person may make representations about a development plan document. (2) Any such representations must be— (a) made within a period of 8 weeks starting on the day the council complies with regulation 15(d), and (b) sent to the address specified pursuant to regulation 15(a)(v).</p>	<p>16</p>	<p>16 (1 – 2) The dPS was advertised in the Belfast Gazette on 19th October 2018 and in the local newspapers on 17th, 18th, 24th and 25th October 2018. These public notices can be viewed at FODC413.</p> <p>The public notice indicated that the dPS and supporting documents would be available for consideration from Friday 26th October 2018, for a period of 8 weeks, until Friday 21st December 2018.</p>
<p><u>Availability of representations on a development plan document</u></p> <p>17.(1) As soon as reasonably practicable after the expiry of the period referred to in regulation 16(2)(a) the council must—</p>	<p>17</p>	<p>17(1) (a-e) A copy the representations received to the dPS were made available on the council website and advertised in the Belfast Gazette on 8th February 2019 and the local newspapers on 6th, 7th, 13th and 14th February 2019. The public notices indicated that the representations would be available for inspection and comment during the period 14th February 2019 to 11th April 2019 (8 weeks). Following the discovery of an administrative error, this consultation</p>

<p>(a) make the following documents available for inspection at the places referred to in paragraph</p> <p>(b)— (i) a copy of the representations, (ii) a document containing a statement indicating the time within which counter representations may be made, and (iii) notice of the address to which counter representations can be sent;</p> <p>9 (b) the places referred to in paragraph (a) are— (i) the council’s principal offices, (ii) such other places within the district of the council as the council considers appropriate;</p> <p>(c) publish the representations on its website;</p> <p>(d) give notice in the Belfast Gazette and by local advertisement of the fact that representations are available for inspection and the places and times at which they can be inspected; (e) notify the consultation bodies of the fact that representations are available for inspection and the places and times at which they can be inspected; and (f) notify any person who has made (and not withdrawn) a representation in accordance with regulation 16(2) of those matters. (2) A council need not comply with paragraph (1) if the representation is made after the period specified in regulation 16.</p>		<p>was re-run from 2nd May 2019 to 27th June 2019. This was advertised in the Belfast Gazette on 26th April 2019 and in the local newspapers on 24th and 25th April and 1st and 2nd May 2019. The notices provided details of the places and times when the representations could be inspected. The newspaper notices can be found at FODC413.</p> <p>The representations were made available for inspection during normal office hours at the Grange and Strule House Omagh and at the Townhall and former Fermanagh Visitor Centre Enniskillen. The address for submission of representations to be sent was also provided.</p> <p>The representations, including details of when representations may be made and where they could be sent to, were all placed on the council website at the same time as the local newspaper advertisements.</p> <p>On 12th February 2019 the council initially notified the consultation bodies and all those who had made a representation (FODC510 and FODC511). Following the discovery of an administrative error, the council again notified consultation bodies by letter dated 8th May 2019 giving details of the consultation period (8 weeks) and the availability of representations. A sample notification letter can be found at FODC512. A similar letter dated 30th April 2019 also issued to all those who made a representation in accordance with regulation 16(2). A sample notification letter can be found at FODC513.</p>
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<p><u>Public consultation on site specific policy representations</u></p> <p>18.(1) Any person may make representations about a site-specific policy representation (in regulations 17, 19 and this regulation referred to as “counter representations”).</p> <p>(2) Counter representations must be— (a) made within a period of 8 weeks starting on the day the council complies with regulation 17(1)(a), and (b) sent to the address specified in regulation 17(1)(a)(iii). (3) Counter representations must not propose any changes to the development plan document.</p>		<p>18 (1-2) Public consultation on site-specific policy representations took place from 14th February 2019 to 11th April 2019 and again from 2nd May to 27th June 2019.</p> <p>All counter representations received during this period can be found at FODC502.</p>
<p><u>Availability of representations on site specific policy representations</u></p> <p>19.(1) As soon as reasonably practicable after the expiry of the period referred to in regulation 18(2)(a) the council must— (a) make a copy of the counter representations available for inspection during normal office hours at— (i) its principal offices, and (ii) such other places within the district of the council as the council considers appropriate; and (b) publish this information on its website. (2) The council need not comply with paragraph (1) if the counter representation is made after the period specified in regulation 18(2)(a).</p>		<p>19(1) A copy of all counter representations were made available for inspection during normal office hours at the Grange and Strule House Omagh and the Town Hall Enniskillen from November 2019. They were also placed on the council website at this same time.</p>

Submission of documents for independent examination

20. (1) Before a council submits a development plan document to the Department under section 10, it must consider representations made under regulation 16 and, as the case may be, regulation 18.

(2) The documents prescribed for the purposes of section 10(3) are— (a) the report under section 8(6)(b) or, as the case may be, section 9(7)(b), (b) the statement of community involvement, (c) evidence that the council has complied with its statement of community involvement, (d) copies of the notices referred to in regulation 10(a)(iv), 15(a)(iv), and 17(1)(a)(iii), (e) the timetable, (f) a statement setting out— 10 (i) a summary of the main issues raised in representations made in accordance with regulation 11(2), and (ii) how those main issues have been taken into account in the preparation of the development plan document; (g) a statement setting out— (i) if representations were made in accordance with regulation 16(2) or 18(2), the number of representations made and a summary of the main issues raised in those representations, or (ii) that no such representations were made; (h) copies of any representations made in accordance with

20(1) The Council has carefully considered all representations made under regulation 16 and regulation 18 and that consideration is set out in the Draft Plan Strategy Consultation Report which can be found at FODC109.

The Council has also carefully considered all representations and counter representations received in relation to the draft Plan Strategy and prepared a summary report and Consultation Report on issues raised and the Council's view on these. A summary of the main issues raised is also contained within the Summary Report of Main Issues raised to DPS at FODC115.

20(2) The Council has submitted all specified documents.

20(3) A copy of draft Plan Strategy is submitted to the Department as part of the submission documents. It can be found at FODC101.

<p>regulation 16(2) or 18(2), and (i) such supporting documents as in the opinion of the council are relevant to the preparation of the development plan document.</p> <p>(3) The council must also send to the Department— (a) where the development plan document is a plan strategy, a copy of that plan strategy, or (b) where the development plan document is a local policies plan— (i) a copy of that local policies plan, and (ii) a copy of the adopted plan strategy.</p>		
<p><u>Availability of submission documents</u></p> <p>21. As soon as reasonably practicable after a council submits a development plan document to the Department it must— (a) make the following documents available for inspection at the places referred to in paragraph (b) — (i) a copy of the development plan document, (ii) the documents specified in regulation 20(2), and (iii) such other documents as in the opinion of the council are relevant to the preparation of the development plan document; (b) the places referred to in paragraph (a) are— (i) the council’s principal offices, and (ii) such other places in the district of the council as the council considers appropriate; (c) notify the consultation bodies of the fact that the development plan document and the</p>		<p>21(1) As soon as reasonably practicable following submission of the draft Plan Strategy to the Department, the council will make all specified documents available as required.</p>

<p>documents mentioned in paragraph (a) are available for inspection and the places and times at which they can be inspected; (d) notify any person who has made (and not withdrawn) a representation in accordance with regulation 16(2) or 18(2) of those matters; (e) give notice in the Belfast Gazette and by local advertisement of the fact that the development plan document has been submitted to the Department; and (f) publish the notice mentioned in paragraph (e) on its website.</p>		
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