



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

Local Development Plan 2030 Draft Plan Strategy

Summary Report of Main Issues Raised

December 2020

Summary of Main Issues for Independent Examination

1.0 Introduction

- 1.1 This report has been prepared in accordance with the requirements of Regulation 20 (2) (g) of The Planning (Local Development Plan) Regulations (Northern Ireland) 2015. The Regulations require that when a development plan document – in this case, the Draft Plan Strategy - is submitted to the Department for independent examination, it is accompanied by a statement setting out the number of representations and counter representations and a summary of the issues raised. The Council's views on those main issues are the set out by topic area in the Consultation Report.
- 1.2 The Consultation Report provides a detailed summary of what are considered the main planning issues raised and the Council's response to these. In the main, the response has been to rebut the comments. However, in other cases, the Council has accepted/conceded to changes where, in our view, they represent logical and rational amendments to a policy or policy clarification in response to the representations received. They are not minor changes and they are not in response to addressing 'soundness' issues. Whilst the changes in many cases may be important and significant, they are not required to make the plan sound. Only in a very few cases are the changes considered to be focussed as described by Development Plan Practice Note 10 'Submitting Development Plan Documents for Independent Examination' (DPPN 10).
- 1.3 Taking into account DPPN 10, these proposed changes were published for consultation on 16 July 2020 for a period of 8 weeks with a closing date of 11 September 2020. Following the discovery of some errors in the published Schedule of Proposed Changes, the consultation was initially paused on 2 September 2020 and then cancelled and subsequently re-run from 8 October to 3 December 2020. As contained within DPPN 10, the Council is not required to comment upon the responses received. The proposed changes and any responses to them, have been submitted without prejudice for consideration at the Independent Examination.

2.0 Representations to the LDP Draft Plan Strategy – An Overview

- 2.1 The Draft Plan Strategy was approved by Members for the purpose of public consultation on 18th September 2018 at a Special Regeneration and Community Committee Meeting and then ratified by the Council on 2nd October 2018. The 8-week public consultation period on the Draft Plan Strategy formally ran from 26th October to 21st December 2018. This was followed by a further 8-week consultation on the representations received to allow for the submission of site-specific representations (counter representations). The 8-week period which ran from 14th February 2019 to

11th April 2019 was rerun due to an administrative error discovered in the notification to consultation bodies. To ensure compliance with the LDP Regulations, the new consultation period ran from 2nd May to 27th June 2019.

2.2 The Council received a total of 322 representations from individuals, interest groups, organisations and government departments, the majority of which raised an issue which the Council considered to require further consideration or explanation, or specifically identified the plan as being unsound. Further to discussion with the Planning Appeals Commission, the Council have not assumed a soundness test in the absence of any being cited within a representation. In order to allow for full consideration of the impact of identical or similar individual issues relating to a policy area these have been grouped together identifying 652 Main Issues. Table 1 provides a summary of the number of comments/issues broken down by Chapter/Section of the Draft Plan Strategy and their grouping to main issues. It should also be noted that of the 322 representations received, 187 are generic in nature i.e. multiple signed copies of two separate submissions.

2.3 An analysis of the number of issues indicates that the following topic areas raised the majority of 'unsound' issues: -

- Minerals Development (16.8%)
- Landscape (15.3%)
- Flood Risk Management (10.4%)
- Tourism (7.3%)

In terms of related Main Issues, 41.5% were raised across the following topic areas: -

- Sustainability Appraisal/SEA (13%)
- Minerals Development (7.5%)
- Housing in the Countryside (7.4%)
- Housing in Settlements (6.9%)
- Tourism (6.7%)

Table 1: Summary of Public Consultation Responses to draft Plan Strategy

Chapter/Section	No of Issues 'Unsound'	No of Issues 'Sound'	Total No of Issues	Number of Related Main Issues
Part One				
1.0 Introduction	1	0	1	
2.0 Legal Status and Policy Context	1	0	3	3
3.0 Preparation Process, Consultation and Assessments	1	0	4	2
4.0 Spatial Portrait	0	0	0	
5.0 Vision and Objectives	7	1	11	3
Furthering Sustainable Dev.				2
6.0 Spatial Growth Strategy			1	
Settlement	24	1	34	5
Strategic Allocation of Housing	16	1	21	17
Strategic Allocation of land for Industry and Business	2	0	3	2
Transportation			1	1
Part Two				
1.0 Introduction	1	0	1	1
2.0 Development and Design	15	0	35	18
3.0 People and Places				
Housing in Settlements	22	1	55	45
Housing in the Countryside	34	1	71	48
Community Facilities	1	0	1	1
Open space, sport and recreation	10	0	30	18
Rural Community Areas	87	0	97	21
4.0 Economy				
Industry and Business	157	5	175	30
Town Centres and Retailing	12	2	28	33
Tourism	166	0	184	44
Minerals Development	381	0	489	49
5.0 Environment				
Historic Environment	94	1	235	34
Natural Environment	162	0	171	12
Landscape	347		369	37
6.0 Infrastructure				
Flood Risk Management	236	10	260	22
Renewable Energy	90	0	105	26
Transportation	26	0	36	32
Public Utilities	80	0	85	4
Waste Management	79	0	84	11
7.0 Monitoring and Review	85	0	89	9
Glossary	1	0	2	*
Appendix 6	1	1	2	*
Appendix 7	8	0	117	9
Sustainability Assessment/SEA	34	0	94	85
Habitats Regulations Assessment	79	0	117	26
Equality Impact Assessment	0	0	0	0
Rural Impact Assessment	1	0	4	2
Unattributed / Other	0		12	
TOTALS	2261	24	3026	652

Site Specific Representations (Counter representations)

- 2.4 Of the 60 counter representations received, 32 are a generic or duplicate version. In terms of the number of issues raised, the majority of these (out of a total of 147) related to the following policy topic areas:
- Minerals Development (47%)
 - Town Centres and Retailing (15%)
 - Housing in the Countryside (7.5%)
 - Landscape (7.5%)
 - Renewable and Low Carbon Energy Generation (7%)
- 2.5 The 32 generic counter representations all cited draft policies MIN01, MIN02 and MIN03. MIN01 was cited as an issue 22 times in 7 other representations. This reflects the original representations received where policy MIN01 was by far the policy with the largest number of issues relating to it. In contrast, policy TCR01 Town Centres invited more comment as part of the counter representation process rather than the original draft plan strategy consultation. Other specific policies which generated a number of issues raised within some of the counter representations included HOU09, HOU11, HOU13 and HOU15, the policies for the Sperrin AONB (L01) and Special Countryside Areas (L02); and the Renewable and Low Carbon Energy Generation policy (RE01). A very small number of issues referred to policies HE02 (Archaeology); PU02 (Overhead Lines); TR06 (Disused Transport Routes) and TOU01(Protection of Tourism Assets and Tourism Development).

3.0 Summary of Main Issues for Examination

- 3.1 Having considered all of the representations received in respect of the Draft Plan Strategy, it is the Council's view that the main issues arising from the consultation process which may need to be considered and investigated further at the Independent Examination broadly include issues arising under the following topic headings. In the majority of cases, the appropriateness of the content and wording of policies, and/or their associated policy clarification is the main concern. A more comprehensive list with the Council's response is contained within each of the topic papers.

3.2 The LDP Vision, Strategic Objectives and Spatial Growth Strategy

Issues

- The robustness of the methodology for identifying the amount of land required for industry and business and the number of jobs to be created and the projected number of homes required were challenged

with suggestions for revised figures in Strategic Objectives 4 and 7; suggested minor amendment to the wording of Strategic Objectives 15;

- The appropriateness of the wording of Strategic Policy SP01 which does not accord with specific wording in the SPPS;
- Strategic Policy SP02 raised a number of concerns about the lack of identification of Dispersed Rural Communities (DRCs) and that any DRC with sufficient facilities and infrastructure should be upgraded to Small Settlement Classification. There were also requests for additional Small Settlements to be identified in the Plan Strategy; these include Boho, Aghadrummsee, Clough, Camphill Community Clanabogan and a request for Killyclogher to be designated as a village/suburban village;
- The allocation of housing to the countryside is not consistent with the Growth Strategy and is considered to be unsustainable given the number of completions since 2012 and inclusion of policies which would create additional housing opportunities in the countryside; the appropriateness of the content and wording of policy SP03 and its relationship to policy HOU01 was queried; the policy is too restrictive and inflexible in regard to the approach to greenfield sites; if an urban capacity study had been undertaken; that there should be an indication of the housing provision to each settlement to establish a framework for more detailed housing requirements in the LPP; that there was no indication of wastewater treatment system capacity constraints; some representations challenged the overall housing allocation by means of questioning the methodology used and lack of site development in some towns to justify inclusion of additional housing sites in the Plan;
- In regard to Strategic Policy SP04, there is a need to take account of market requirements for each sector of industry/business and not just physical constraints when looking at rezoning land with a request to rezone a site in Omagh; that previously zoned land should not be simply transposed in the new LDP.

3.3 Development and Design

Issues

- The Context and Justification should contain reference to relevant transport policies given their positive impact on supporting good design and place making;
- Policy DE01 requires additional criteria to make it more comprehensive and clarification is needed on use of 'amenities';

- Additional wording suggested for Policy DE02 to promote more effective integration of land use planning and transport; provide reference to Creating Places document; need to address land stability in context of public safety within the criterion;
- Policies HOU05 to HOU07 should be added to list of policies to which Policy DE03 applies; account has not been taken of PPS 21 and SPPS; reference made to the number of new policies listed which provide additional opportunities in the countryside;
- Policy DE04 introduces more stricter tests further restricting development in the countryside;
- Concern about lack of flexibility in Policy DE06 particularly where there is a lack of available land within settlements;
- In regard to Policy DE07(Advertisements), consider restriction on signs outside business premises in the countryside is unfair; there should be references to road safety in the policy and suggest guidance on LED signage should be included in Appendix 1 of the draft PS;
- Suggested additional wording and criterion for Policy DE08 to ensure that it takes account of paragraph 6.58 of the SPPS;

It was also noted that DfI acknowledged that DE04, DE05 and DE06 take account of, and largely reflect, the SPPS.

3.4 Housing in Settlements

Issues

- The appropriateness of the content and wording of policy HOU01 and its relationship to policy SP03; concerns about the difficulties in developing brownfield sites; the ad hoc release of unzoned greenfield land; there is a need to see some 'uncommitted' land allocated for affordable housing; inflexibility of the policy itself and potential to restrict the supply of suitable housing land within the towns;
- Issues relating to Affordable Housing Policy HOU03 such as how housing needs are assessed for rural areas; the threshold figures for the provision of affordable housing; the definition of affordable housing and the evidence base for the policy;
- There is a need to incorporate the provisions of Policy HS3 of PPS12 into Policy HOU04 Traveller Accommodation;

- Policy HOU05 Shaping Our Houses and Homes should include additional criteria for Lifetime Homes Standards; reasonable separation distances should be defined; lack of reference to promoting sustainable travel;
- Concern expressed that Policy HOU06 could be circumvented by phasing developments lower than the threshold trigger level; off-site open space contributions should only be allowed in exceptional circumstances and some of the criteria are not appropriate;
- Policy HOU07 should explicitly state that it only relates to buildings within settlement limits and that flat conversions should have no adverse effect on heritage assets;
- The need for Policy HOU08 is questioned as there is no specific provision for annex accommodation in the SPPS;
- Generally, a number of the policies are considered 'unsound' as there is a lack of robust evidence base in relation to transportation and absence of Local Transport Strategy;
- Site specific requests to include land within the settlement limits or to rezone land.

3.5 Housing in the Countryside

Issues

- DfI expressed concern about the additional opportunities for residential development which could be created under policies HOU10, HOU11, HOU13 and HOU14.
- Several representations suggested amendments to the wording of Policy HOU09 (Rural replacement Dwellings) and, in one case, its removal as it may conflict or confuse with Policy HE09 (unlisted vernacular dwellings); paragraph 3.37 should be omitted as there is a contradiction in the wording used; amendments sought to text within the policy clarification; query about how the upgrading of housing stock provided through this policy will be assessed/monitored and the absence of a visual assessment. There were also concerns raised about how the policy meets wider sustainability objectives and the cumulative landscape and visual impact of single dwellings within sensitive locations. The policy should be clearer in regard to being solely related to residential development and where it can be demonstrated that the use has not been abandoned.

- Policy HOU10 (Replacement of Other Rural Buildings) was considered unclear and had not taken sufficient account of the SPPS. Suggested wording is provided and amendments to criterion.
- Policy HOU11 (Redevelopment of a former site for dwelling) raised concerns about its appropriateness and that there is no provision for it in the SPPS; that it would lead to an excess number of new dwellings in the countryside, including the AONB and have a negative impact; that there was potential confusion with this and other policies such as Policy HOU09 and HE09; it could lead to pre-emptive removal of mature boundaries; and it needs to take account of road safety issues in relation to access to a public road;
- In regard to Policy HOU12 (Dwelling on a Farm Business), some representations expressed the view that the 6-year time period for defining an active farm is too prohibitive and sought a reduction to 3 years and that other evidence such as herd and flock records should be accepted as supporting evidence of farm activity;
- There is no policy provision within the SPPS for Policy HOU13 (Dwelling in association with the keeping and breeding of horses for commercial purposes); concerns that this could lead to an increase in the number of additional dwellings in the countryside;
- Responses to Policy HOU14 (Rounding off and infilling) were mainly critical of its perceived restrictive nature. Hence, there are concerns regarding the gap for an infill being only acceptable for one dwelling as opposed to two in current policy; the requirement to have three buildings in their own defined curtilages; difficulties with the requirement of a focal point for a cluster. It was also questioned whether the policy had agreement by Councillors. In contrast, DfI considered that the policy appeared to have looser tests and had concerns that there is the potential to create opportunities for additional dwellings in the countryside given the definition of an existing group as three buildings e.g. a dwelling, domestic garage, shed or other ancillary building.
- Policy HOU15 does not align with provisions of the SPPS and has no evidence base to justify it. The supporting text or policy clarification makes no reference to a dwelling to serve a non-agricultural business;
- With regard to HOU17 (Affordable Housing in the Countryside), NIHE expressed concern about the limit of 6 dwellings, arguing that this should be increased to allow for economies of scale; concern also expressed about the delivery of affordable housing by a Rural Development/Community Association as only a Registered Housing

Association can do this. DfI commented that this may create additional development opportunities and that whilst there is a sequential test which includes Rural Community Areas, affordable housing is not referenced in the policy RCA01. Additional comments were made by individuals that DRCs should remain to address housing need provision for an ageing population e.g. rural association homes close to ageing relatives and community facilities;

- The 3-year temporary permission for residential caravans and mobile homes (Policy HOU18) should be extended to 5 years or guided by prognosis from the applicant's GP or other relevant health professional.
- Whilst support for policies HOU09, HOU10 and HOU11 was also expressed, there was disappointment that it would primarily provide opportunities for farmers rather than the non-farm rural dweller who makes a considerable contribution to the rural community;

3.6 Community Facilities

Issues

- Appropriateness of the content and wording of the policy particularly in regard to alternative uses for community facilities when they are no longer required or not economically viable.

3.7 Open Space, Sport and Recreation

Issues

- Policy OSR01 should explicitly state a general presumption against the loss of open space and any development resulting in a loss of open space will only be considered in exceptional circumstances;
- Policy OSR02 (Intensive Sports Facilities) should explicitly state that the applicant must demonstrate specific locational need in order to make the policy effective and to add criteria 'there is no adverse impact on the setting of the settlement'; the policy has only provided criteria for circumstances where intensive sports facilities may be acceptable out with settlements; no reference made in regard to road network capacity, road safety, car parking arrangements etc;
- The policy tests in relation to impact on 'features of importance to nature conservation, archaeology or built heritage' and impact on visual amenity of OS3 in PPS 8 have not been carried through to Policy OSR03 (Outdoor Recreation in the Countryside); no reference to road network/safety matters;

- A definition of Lough Shores in Policy OSR04 is required as there is lack of clarity on its interpretation and could lead to confusion with other policies e.g. OSR 04 ,in terms of what is acceptable as development; difficulties with the cumulative impact of existing and proposed development and siting away from tourism hubs; questions about the weight given to tourism policies if water sports facilities are considered recreational use and not a tourist amenity; concern that there is a lower level of protection provided for the natural environment; issues of potential disturbance to key birds from recreational tourism should be considered; absence of requirement that ‘there is no conflict with the provisions of any local management plan’ as contained in Policy OS 6 of PPS 8; tourism related development should be steered away from sensitive areas; questions impact of the policy which limits development to water-based type facilities and what is scope for proposals where there is already an existing visitor attraction at the lough shore.
- Concern expressed about Policy OSR05 that there is a lower level of protection provided for the natural environment; wording of policy should be considered within context of proposed changes to Draft Policy FLD04.
- Lack of reference within Policy OSR07 to ensure no adverse impacts on nature conservation interests; disturbance of wildlife through inappropriate lighting.

3.8 Rural Community Areas

Issues

- The non-identification of Dispersed Rural Communities (DRCs) in the Plan will make it more difficult to get planning permission; existing DRCs should be identified as they are important when applying for grant funding for rural activity.
- No account taken of: Policy CTY2 in PPS 21; policy and guidance issued by the Department; the Council’s Community Plan; and plans, policies and strategies of adjoining council areas.
- Suggestions made to the qualifying text to include: “planning permission will be subject to meeting all other policy requirements” in order to make it more compliant with para. 3.9 of the SPPS.

- Councillors were misled that only DRCs existed in the legacy Fermanagh Council area and were not aware of their existence in Magherafelt and Cookstown.
- The policy along with Policy TCR04 should be amended to allow for small retail opportunities in DRCs and RCAs.
- The SPPS makes sufficient provision for appropriate sustainable economic and community development in the countryside.
- Clarification required on what constitutes an ‘existing facility’ and there should be links to other relevant policies; definition of ‘rural start up’ in glossary.
- The need/justification for this policy should be supported by clear evidence.

3.9 Industry and Business

Issues

- Policies IB01, IB02 & IB04 should be set within a qualifying context that they will be subject to normal planning and environmental considerations to make them more compliant with the SPPS; absence of up-to-date survey or assessment on the transport needs in the plan area;
- In regard to Policy IB01, the re-use of existing sites and buildings should be encouraged and there is a suggestion for a “call for sites”. The introduction of a “commitment test” will ensure there are specific end user requirements which would justify an edge or out-of-centre location. Absence of zoned land for industrial use in villages;
- Policy IB02 is considered too restrictive and is not founded on a robust evidence base. It would stymie regeneration and growth and should include exceptions for alternative uses where this does not result in a shortfall of industrial land. Policy clarification should include reference for need to attach a condition to mixed use proposals in order to deliver the employment or wider economic development first. The timescale of one year at criterion iii) is relatively short and should be 18 or 24 months;
- It may be appropriate to include in Policy IB03 a precautionary approach that in the absence of scientific evidence to the contrary, there will be a presumption against such incompatible development, particularly if there is the potential risk to human health;

- Policy IB04 should recognise and support the creation of home-based 'cottage industries' such as craft making and that many business owners in rural areas use their home and yard for short term storage of materials ancillary to their main business. Concerns expressed about industrialisation of the Sperrin AONB and that major industrial proposals should not be located there. The use of economic corridors for location of major industrial proposals outside of settlements should be promoted and which support accessibility for all residents in the district. The policy lacks an exceptional circumstances clause and also suggests that criterion (b) is removed as it is completely unrealistic. Clarification is sought on criterion (d) and also a definition of 'rural start up project';
- In regard to Policy IB05, it is suggested that the wording should be amended to refer to proposals or development rather than buildings. An exception should also be provided for a new building away from the farm group;
- Policy IB06 has lowered the level of protection afforded to the natural environment. The policy wording and tests do not align and should be based on Policy CTY12 in PPS21. Concerns were expressed about the impacts of intensive farming on the environment and that the policy clarification should provide more explanation around this and, particularly in relation to ammonia emissions. There was also a need to take account of such impacts on adjoining council areas. A policy presumption against approval for any new intensive factory farms should be introduced by the Council and the Council should undertake a cumulative assessment of the impacts of all intensive factory farms in the Council area and a review of extant consents for such farms to assess potential damage from pollution. The policy must demonstrate that proposals for intensive farming or animal husbandry do not result in significant adverse environmental effects. The siting of new agricultural buildings away from the main group appeared to be a deviation from strategic policy and should be supported by evidence.

3.10 Town Centres and Retailing

Issues

- A number of different issues were raised in relation to Policy TCR01. Some questioned the reasoning behind the 500²m threshold which was viewed by some as being too low. The conclusions of the Retail Commercial and Leisure Needs Assessment were also questioned. There are no Development Opportunity Sites identified with a request for a client's site to be identified as one. There is no SPSS policy

support for a Retail Impact Assessment (RIA) to be carried out to protect the PRC and there are no sites available within the PRC in which new development could locate. Both Erneside Shopping Centre and Omagh Showgrounds Retail Park should be included within the PRC. The proposed town centre boundaries of the local towns are viewed as constraining. The threshold size for shops in Local Neighbourhood Centres should be the same as for petrol filling stations; district centres should be identified in the draft Plan Strategy e.g. Cornagrade Road, Enniskillen; there should be a 'call for sites' to identify redevelopment sites for national multiples and local independents;

- Whilst Retail NI support Policy TCR02, DfI consider that criterion (b) needs further clarification;
- It was suggested that the threshold in Policy TCR03 should be increased from 100 m² to 150 m²;
- Small retail opportunities should be provided in DRCs and RCAs;
- No justification for 250m² floorspace limit for petrol filling stations (Policy TCR05) and instead any proposal above this size should be accompanied by a RIA.

3.11 Tourism

Issues

- Lack of reference to natural environment and designations within the Context and Justification; the LDP should ensure that proposals do not have an adverse impact on biodiversity and should steer tourism related development away from sensitive areas;
- The Tourism Strategy should include reference to accessibility by different modes of transport; it is unclear if a policy to protect tourism assets, amenities and developments will protect the quality of a tourism hub;
- Policy TOU01 should have reference to the protection of the natural environment; the tourism assets should be listed and measures of protection appropriate to each situation should be provided; the Council should facilitate the development of an Omagh Sperrins AONB tourism action plan with input from tourism providers and led by the community; concerns about the impact of mining on the Sperrin AONB which is a tourism asset whilst others seek to ensure that there is no blanket ban on minerals development within the AONB; the evidence base for

tourism and contribution to local economy should be reviewed; DfI queried Part B of the policy as it could impact on the number and distribution of dwellings in the countryside;

- Policy TOU02 appears to be against self-catering accommodation and there is suggested inconsistency between this policy and Policy IB05 which allows for self-catering accommodation conversion proposals on farms; the policy also seems to suggest that both tourism facilities and self-catering accommodation are major tourism development which is different from the SPPS; the location of tourism hubs should be provided along with definition/location of Lough Shores; separate criteria based policy is suggested for tourism hubs; additional policy wording and policy clarification required for example, inclusion of reference to heritage assets and natural environment, and for strengthening policy to better reflect SPPS and sustainable tourism developments;
- In relation to Policy TOU03, minor suggestions to the policy wording such as reference to impact on the natural environment;
- Additional policy wording sought in relation to Policy TOU04 regarding references to the historic environment and natural environment; concern expressed that criteria (c) could lead to case being made for demolition of locally important buildings;

3.12 Minerals Development

Issues

- There were a number of general issues raised in relation to minerals development including a request for a moratorium to be put in place for all new extractive industries; that there should be a policy presumption against the exploration and extraction of precious minerals; concerns expressed about the toxic impact of substances involved in gold mining; that the Council did not use information collected from minerals operators; that a distinction should be made between valuable minerals and other minerals such as aggregates as they have different extraction methods;
- As regards Policy MIN01, the robustness of the evidence base for identifying Areas of Constraint on Mineral Development (ACMDs) is questioned along with the justification for the 15 year period; the extent of the proposed ACMDs is also a concern; the stricter approach to commercial peat extraction needs a robust evidence base; requests for minor word changes to the policy and clarification content; that the use of cyanide should be forbidden. In other cases, there is criticism that

the policy is too permissive in nature particularly in regard to the exceptions within ACMDs;

- The rationale for financial bonds as proposed in Policy MIN02 is questioned; and further clarification on how they would be applied is required;
- The appropriateness of Mineral Safeguarding Areas (MSAs) without an understanding of the extent of reserves and lack of identification in the Plan were the main issues regarding Policy MIN03; suggestions offered for sites suitable for minerals development which could be identified in the Plan;
- Representations in relation to MIN04 sought to strengthen or improve the wording of the policy; in particular that it should have a presumption against both exploration and extraction of unconventional hydrocarbon and improved explanation of what is meant by fracking added into the policy clarification;

3.13 Historic Environment

Issues

- The need for and purpose of Policy HE01 is questioned; difficulties with wording of the policy which is considered vague and contradictory and is contrary to the cautious approach to the management and protection of the historic environment and the SPPS; a request that it should be omitted;
- Concerns about the wording and clarification of Policy HE02 which fails to fully take account of PPS 6 and the SPPS; concerns about the presumption against certain large-scale development types e.g. wind energy development and the extension of Beaghmore ASAI; the area in the Sperrin AONB identified as having no capacity for wind energy, should be extended to include the proposed Beaghmore ASAI;
- Concerns about the wording and clarification of Policy HE03 as not consistent with RDS RG11 and the SPPS; the draft policy omits significant detail of explanatory justification and amplification contained within Policies BH7-11 of PPS 6; requests for inclusion of additional and alternative wording;
- The policy and policy clarification of HE04 do not take sufficient account of the SPPS or relevant policies contained in PPS 6; the tests in the clarification are higher tests than for listed buildings and therefore do not respect the hierarchy of heritage assets; additional

criteria required; the policy does not clearly state the general presumption against the demolition of unlisted buildings within Conservation Areas;

- The policy and policy clarification of HE05 do not take sufficient account of the SPPS; additional criteria suggested; queries the level of tree protection in the policy which has not legislative requirement;
- Policy HE06 does not take sufficient account of RDS RG11 and the SPPS; additional criteria suggested; wording of second bullet point differs from the SPPS;
- The policy and policy clarification of HE07 do not take sufficient account of the SPPS; there is no policy basis for the use of LLPAs as buffers; suggestions for alternative wording; request for removal of LLPA around Rathmore Hill, Belleek; and a resurvey of existing LLPAs should be undertaken;
- The policy and policy clarification of HE08 do not take sufficient account for the SPPS and suggests amended wording and criteria; policy should highlight that enabling development would only be allowed in exceptional circumstances; the full list of criteria of the existing operational policy should be included;
- Policy HE09 is not consistent with RDS RG11 and the SPPS; suggested amendments to wording of policy and policy clarification; extensions, alterations or modifications should have no adverse impact on a locally important or vernacular building; missing words from SPPS could weaken intent of policy; need to include biodiversity in policy wording as it is part of the consideration of any proposals for redevelopment of old buildings and vacant sites.

3.14 Natural Environment

Issues

- The main concern about Policy NE01 is that by subsuming policies NH1, NH3 and NH 4 of PPS 2 into a single policy, this has effectively weakened protection to the natural environment and does not fully reflect the provisions of relevant legislation such as The Conservation (Natural Habitats etc) Regulations (Northern Ireland) 1995; the policy does not take account of the SPPS; need to avoid generalising or summarising tests across the natural resource heritage hierarchy as could result in inadvertent raising of a policy test threshold; the policy tests have generally weakened those for European sites etc as contained in the relevant policies of PPS 2; the policy fails to highlight

that in exceptional circumstances, appropriate mitigation and/or compensatory measures will be required; suggestions for amended wording and referral to policies contained in PPS 2;

- Similarly, Policy NE02 has weakened the policy provisions of NH2 of PPS 2 and does not take account of SPPS; it fails to set out the policy tests for European and Nationally Protected Species and recommends that Policy NH 2 is copied in order to be consistent with the RDS, SPPS and Biodiversity Duty;
- Policy NE03 is viewed as being extremely narrow in its scope and the list of priority species and habitats within paragraph 6.192 of SPPS should be replicated in full; it is not enough to refer to species and habitats identified in FODC's Local Biodiversity Action Plan as habitats can be linked outside boundary e.g. hydrologically; overall the policy weakens the protection given in the SPPS and PPS2;

3.15 Landscape

Issues

- A number of issues were raised in relation to Policy L01. These included that it should refer to the 'special character' of the areas as in PPS2 and the SPPS and should set out the special features and characteristics of the Sperrin AONB; the policy should be expanded to apply policy tests for special distinctive character, quality of landscape, heritage and wildlife; it was unclear how this draft policy offers greater protection to this exceptional landscape over and above the general countryside policies; the absence of a management plan was noted; proposals for recreational facilities within the Sperrin AONB should be subject to same constraints as other development; there should be a requirement for a landscape and visual assessment (LVIA) for all development; account should be taken of the Landscape Character Assessment; some of the wording such as 'impact negatively' is inconsistent with the policy clarification; the evidence base used is flawed; the approach proposed does not take account of any social or economic benefits; need to demonstrate how this policy for a cross-boundary designation does not conflict with DPDs of neighbouring councils; RE01 conflicts with L01 and L02 as they do not establish a presumption against wind energy development;
- With regard to Policy L02, some representations questioned the robustness of the evidence base (Landscape Character Review) and the justification for the proposed SCA designations and that no detail on the methodology has been provided; the extent of the SCA appears to have been informed by NILCA 2000; there are suggestions for

changes to policy wording and requirements for an LVIA as is required for AoHSVs; no definition of exceptional character; the use of 200m contour as basis for defining proposed Sperrins and Mullaghcarn SCAs is questioned; it is not clear what the exception criteria are for SCAs over and above the general countryside policies; need to demonstrate how this policy is sustainable in terms of housing growth (second bullet point of policy and reference to consolidation of existing development); it should include qualifying text that 'planning permission will be subject to meeting all other policy requirements';

- With reference to Policy L03, it was questioned why there were no Areas of High Scenic Value (AoHSV) identified in Tyrone.

3.16 Flood Risk Management

Issues

- Policy FLD01 requires minor amendments, mostly of a technical nature, to the policy wording and clarification; FODC should not be promoting the acceptance of residential development within a floodplain even in part;
- Policy FLD02 is considered too flexible; suggested additional wording to policy clarification;
- Policy FLD03 should be extended to all areas and not just those identified as being at risk to surface water flooding; replace 'must' with 'where practicable';
- Suggested added wording to Policy FLD04;
- In regard to Policy FLD05, RSPB recommends that there is a presumption against culverting on water course in all designated sites and supporting habitats; amended wording suggested at second bullet point to include 'to the satisfaction of DfI Rivers';
- The title of Policy FLD06 should be changed to refer to 'controlled reservoirs'; need to refer to Flood Risk Assessment; minor text changes and clarification;

3.17 Renewable and Low Carbon Energy Generation

Issues

- The robustness of the evidence base comprising the Landscape Wind Capacity Study and Landscape Character Review is questioned. In

particular, that the methodology is flawed; that planning proposals should continue to be assessed on their own merits and not excluded from ASAs; there is no justification for designating areas as “Underlying Capacity” or “ Significant Cumulative Development”; the capacity designations must be applied with flexibility recognising that there are potential development areas within them that do not conform to the general definition; the Wind Energy Strategy map does not take account of European or nationally designated heritage sites, priority species or habitats; it is queried why the entire Sperrin AONB is not an “Area of No underlying Capacity”; that the approach taken by the Council is tantamount to applying a moratorium on wind energy developments within areas of the Sperrin AONB;

- The wording has weakened the policy provision for development on active peatland. Policy RE1 of PPS18 and paragraph 6.226 of the SPPS provide a higher test than currently proposed in Policy RE01 i.e. any renewable development ‘on active peatland will not be permitted unless there are imperative reasons of overriding public interest’;
- Policy test (j) has narrowed the scope of cumulative impact analysis; an additional test is needed ‘that the development will not have an unacceptable impact on visual amenity or landscape character through: the number, scale, size and siting of turbines’;
- The policy should include arrangements for ongoing adjustments to include taking on board emerging evidence of negative impact of low frequency noise, shadow flicker etc;
- The separation distance is questioned and there are recommendations to look at planning guidance currently being drafted in the Republic of Ireland; that international studies on wind turbines show that ultra-sound and low frequency noises cause health problems and that the minimum separation distance should be 1500 metres;
- The application of the separation requirement for future wind farm repowering applications may have significant impact on the feasibility of wind farms;
- The term ‘temporarily’ unoccupied should be defined; there is no justification for the removal of ‘will generally apply’;
- The proposed wording on road safety at point m) does not give sufficient protection and suggested wording is provided;
- There should be further rigorous tests included in relation to heritage and landscape considerations e.g. no unacceptable adverse effects on

long and medium range views to and from sensitive landscapes, and that criterion c) should at least refer to built heritage interests and their settings;

- There is an urgent need for a comprehensive and independent review of the wind energy business in NI before any further planning applications are recommended for approval;

3.18 Transportation

Issues

- Insufficient regard taken of the Local Transport Strategy as not referenced in the Context and Justification section of Transportation;
- Too much focus in Draft Policy TR01 on the car and traffic and not enough on alternative modes of travel (walking, cycling, public transport);
- Too much focus on providing and protecting car parking facilities as contained in draft Policy TR02; need for policy to comply with a town centre parking strategy that meets requirements of SPPS;
- Clarification required on 'current published parking standards';
- Draft Policy TR04 (Protected Routes) does not take sufficient account of rural communities;
- Draft Policy TR04 does not have the detail covering all the Protected Routes network;
- The appropriateness of the content and wording of policies with suggestions for improving the policy wording and policy clarification;

3.19 Public Utilities

Issues

- The appropriateness of the wording of draft Policy PU02 with suggestions for changes in relation to criterion one and two of the bullet points;
- Flexibility needed for proposals for overhead lines associated with minerals developments;

- Concerns about use of package sewage treatment plants in relation to draft Policy PU04.

3.20 Waste Management

Issues

- Lack of reference in draft Policy WM01 to road safety, infrastructure improvements parking and turning within the site etc;
- Policy WM01 would benefit from reference to compatibility to existing waste management facilities;
- Criticism about absence of data on capacity constraints in relation to WwTWs (draft Policy WM02);
- Compatibility of development in vicinity of waste management (draft Policy WM03)

3.21 Monitoring and Review

Issues

- Concerns about the ability to measure policy effectiveness without specific targets to trigger a need for review or assess performance robustly and competently.
- Suggested additions to the monitoring indicators for the historic environment.
- The Monitoring Report should include a detailed data set on weather events, localized floods and land slippage events.
- Suggested amendments to Indicators 4, 5, 21 and 22.
- Definition/purpose of Indicators 1, 29 and 30 are questioned with suggested modifications.

3.22 General Issues

Issues

- Issues relating to the content and wording of Part One/Chapter Two/Legal Status and Policy Context;

- Clarification is sought on the supplementary guidance referenced in Part One, Chapter 2.0, Paragraph 2.15;
- In relation to 'Working with other Local Authorities (Part One, Chapter 3.0) that account has been taken of cross boundary designations such as SPAs and Sperrin AONB;
- Suggested amended wording to refer to 'furthering' rather than 'delivering' sustainable development in Part Two, Chapter 1.0, Paragraph 1.3
- Need to demonstrate how the objectives for the council may be delivered and by whom and when and need for discussion on capacity constraint in Part Two/Chapter 6.0.

3.23 Sustainability Appraisal

Issues

- Issues relating to the wording and content of SA Objectives and decisions-making criteria.
- Issues relating to reasonable alternatives and that process has not been properly carried out. Fails to comply with EAPP regulations with respect to MIN01.
- Limited targets set for monitoring indicators and monitoring should be clearly linked to SA process. Additional meaningful indicators should be included for historic environment. The monitoring measure "Extent of mineral reserves and extracted minerals assets" should be included in Objective 10 – Water Quality; Objective 11 – Air Quality and Objective 16 – Waste Management.
- Baseline in relation to major environmental problems is not adequately addressed and no clear mechanism for monitoring impacts.
- Additional references and factual updates required, including within Plans, Policies, Programmes and Strategies (PPPS) section.
- Insufficient recognition of the economic contribution of minerals industry in assessment table. Additional reference made to failure of SA to recognise economic potential of gold reserves.
- Lack of appraisal of Mineral Safeguarding Areas (MSAs) which are not designated in the Plan. No sound reason for rejection of reasonable alternative for protecting valuable mineral resources.

- Assessment of policy MIN02 is incorrect and the payment of a restoration bond is seen as a departure from regional policy.
- Lack of evidence to support policies on the historic environment; and scoping report, key characteristics and baseline information should have been updated.
- The historic environment expertise which informed the assessment is questioned. Advice provided by HED has not been taken on board.
- Issues relating to the scoring and commentary assigned to a number of the policy groupings in the Discussion Tables and Matrices. Suggested alternatives/inclusions are provided. Discussion on 'social' aspect of sustainable development is limited. Disagrees with comments on cumulative effects and transboundary impacts.
- Lack of reasoning on how preferred option on renewable energy development in the POP was taken forward and suggests lack of transparency in the SA process.
- Considers that the Landscape Wind Energy Strategy/Landscape Wind Energy Capacity Study is flawed and therefore is not a sound evidence base for SA.
- Reference is made to various documents e.g. A Practical Guide to SEA (DCLG 2005) which are considered relevant to SA process.
- Insufficient analysis of SEA alternatives.
- Insufficient consideration of transboundary impacts of pollutants and failure to address impacts of mining and quarrying and intensive agriculture in relation to transboundary impacts.

3.24 Habitats Regulations Assessment

Issues

- Questions how cumulative impacts have been addressed in the HRA.
- Concern about how the Landscape Wind Energy Strategy impacts on designated sites such as SAC, SPAs and Ramsars.
- Issues relating to the content and wording of Natural Environment policy and how this weakens the IROPI test.

- Considers that should progress to Stage 2 Appropriate Assessment.
- Too much reliance on mitigation and avoiding adverse effects at later stage.
- Queries how reflective of the SPPS are the DPS policies.
- Consideration should be given to whether the plan inhibits the potential of species and habitats to adapt to climate change.
- Suggest that there should be a separate policy to protect peatland areas from inappropriate development in the interest of nature conservation and climate change.
- Issues relating to prematurity and need to address gaps in knowledge and analysis (evidence base); duty to restore European Sites to favourable conservation status; transboundary considerations.
- Issues relating to consideration of relevant alternatives; review of extant consents for extractive industries.
- Considers that both the HRA and SEA are not informed by potential impacts of mining or threats from existing extractive industries.
- Should not conduct an HRA if Mineral Safeguarding Areas are not identified and that policy MIN03 should be removed.
- There should be a policy presumption against approval for any new intensive factory farms.

3.25 Rural Impact Assessment

Issues

- The LDP is not consistent with the RNIA as the settlement hierarchy proposed will not support and sustain rural communities outside of settlements and excludes Camphill Community Clanabogan from the small settlement hierarchy.
- No acknowledgement or investigation of the impact to the residents, business and community groups of the eleven DRCs which are recognised in the Fermanagh Area Plan 2007. No rationale has been provided for their exclusion.
- Absence of retailing and advertising for businesses in the countryside.

3.26 Equality Impact Screening Report

No issues were raised.

4.0 Conclusion

- 4.1 As explained in paragraph 1.2, the Council's responses to the issues raised are detailed in the Consultation Report. Having carefully considered the issues raised, the Council decided to publish a Schedule of Proposed Changes setting out a number of changes which the Council wished to make to either policy wording or policy clarification. The Council respectfully submits these for consideration at Independent Examination.