

Strategic Planning Directorate



Department for

Infrastructure

An Roinn

Bonneagair

www.infrastructure-ni.gov.uk

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Our Reference:

21 December 2018

Dear Deirdre,

FERMANAGH & OMAGH DISTRICT COUNCIL – DRAFT PLAN STRATEGY - CONSULTATION

Fermanagh & Omagh District Council published the draft Local Development Plan Strategy on 25 October 2018. In accordance with regulation 15 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 the Council consulted with the Department for Infrastructure (DfI) in relation to the Draft Plan Strategy.

Please find attached representations to the consultation from:

- DfI Planning;
- Roads;
- Transport Planning Modelling Unit;
- Rivers; and
- Water and Drainage Policy Division.

Yours sincerely



Alistair Beggs
Director

Introduction

1. The Department for Infrastructure would like to thank the Council for the opportunity to comment on the Fermanagh and Omagh Local Development Plan (LDP) draft Plan Strategy. The LDP provides a 15-year framework to support the economic and social needs of a council's district in line with regional strategies and policies, while providing for the delivery of sustainable development¹.
2. The Council's LDP has adopted the same vision as the Community Plan. Whilst the LDP and Community Plan should work in tandem toward this vision, the LDP has a distinct role in giving spatial expression to the community plan. It is also important to acknowledge that preparation of the LDP is subject to a different statutory process, including an Independent Examination to test Soundness of the Plan as a whole. This includes examining the content of the plan by reference to consistency tests set out in guidance. These require Council to take account of the Community Plan and to demonstrate that it has taken account of the Regional Development Strategy (RDS) 2035 and other policy and guidance issued by the Department.
3. In view of the above, and in keeping with its oversight role², the Department offers this representation in the interest of good practice and to assist the Council to minimise the risk of submitting an unsound Development Plan Document (DPD). In developing this response the Department has looked for clear evidence that the tests set out in Development Plan Practice Note (DPPN) 06 'Soundness' have been addressed. All comments are offered without prejudice to a future Minister's discretion to intervene later in the plan process or to the Independent Examination of the draft Plan Strategy.
4. We acknowledge and commend the considerable amount of work that the Council development plan team have put into preparing the draft Plan Strategy and supporting documents. We would urge the Council, to seek legal advice to ensure that all the procedural requirements have been met, including Sustainability Appraisal (SA) including Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA), as responsibility for these matters rests with the Council.
5. This strategic response highlights two key areas which the Department considers may pose a risk to Soundness when considered against the tests set out in DPPN 06. These are the Spatial Growth Strategy (including the allocation of housing) and the policy approach to Development in the Countryside. The response also highlights other strategic matters including cross boundary

¹ Para 2.6 Development Plan Practice Note 01 'Introduction: Context for Local Development Plans'

² Para 6.2 Development Plan Practice Note 06 'Soundness' (Version 2),

working; infrastructure availability and LDP monitoring. These aspects have been highlighted by the Department in order to reinforce their importance to achieving an integrated and co-ordinated approach to higher level regional planning aims and objectives. Furthermore these matters are also aspects of Soundness and so the relevant Soundness Tests are highlighted.

6. Detailed comments in relation to specific operational policy matters are addressed in Annex 1.

Spatial Growth Strategy

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

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

CE1 The DPD sets out a coherent strategy from which its policies and locations logically flow and where cross boundary issues are relevant it is not in conflict with the DPDs of neighbouring councils;

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

7. The overarching purpose of the Plan Strategy is to provide the strategic policy framework for the plan area as a whole and to bring forward a local growth strategy³. Departmental guidance indicates that a Plan Strategy should identify the settlement hierarchy and growth strategy for the plan area, informed by a description of the characteristics of each settlement, and an assessment of its strengths, opportunities, constraints and existing development potential. The Plan Strategy should also address strategic housing issues such as the overall housing provision for each settlement to set the framework for more detailed housing requirements such as zonings and key site requirements for specific sites in the Local Policies Plan⁴.
8. The Council has presented a settlement hierarchy comprising 4 tiers: Main Towns; Local Towns; Villages and Small Settlements. The Spatial Growth Strategy apportions growth to each Main and Local Town and allocates a single figure to the remaining village and small settlement tiers. The detail provided for Main Towns and Local Towns would have been useful in respect of the Villages and Small Settlements tiers. The Department considers this would have been an appropriate level of detail to provide within the draft Plan Strategy

³ Paragraph 5.23 Strategic Planning Policy Statement.

⁴ Paragraph 13.3 Development Plan Practice Note 7 'Plan Strategy'

in order establish the strategic direction and provide certainty on which to base key development decisions. It would also provide a more complete framework for the preparation of the Local Policies Plan⁵. This is considered relevant in context of the large number of smaller settlements within the Council's district.

Housing Allocation

9. The Department welcomes the Council's acknowledgement of the role of the Housing Growth Indicator (HGI) in providing an estimate of the housing need in the district over the period 2012 – 2025. It also notes the approach of extrapolating the HGI to 2030 to align with the plan period and further adjustment to account for under-delivery in the period 2012 – 2017. The Council is reminded that the HGI should not be viewed as a rigid framework but as a guideline to inform local planning. While the HGI is not a target to be achieved, or a cap on development, it nevertheless provides a robust starting point for considering the level of housing likely to be required to meet housing need.
10. The draft Plan Strategy indicates that the council has adjusted the 4500 units indicated by the HGI 2012 – 2025 by extrapolating the indicator to 2030 to align with the plan end date. The HGI has also been further refined to take account of development that has taken place in the period 2012 - 2017. The plan states that this establishes a housing target of 6230 or 5190 dwellings for the period 2015 – 2030. Council state that this leaves a balance at April 2017 of 4001 dwellings (para 6.25). This is the housing need indicated in Draft Strategic Policy SP03. It is noted, however, that this strategic allocation relates only to settlements and does not acknowledge the additional housing that will be built in the countryside over the rest of the plan period.
11. The Council is reminded of the role of Housing Needs Assessment and Housing Market Analysis in providing an evidence base that must be taken into consideration in allocating the land required to facilitate the right mix of housing tenures including open market and special housing needs such as affordable housing.
12. The Department notes that the approach to allocating the housing target at a strategic level is based upon balancing the regional policy objective of focusing growth on the Hubs while also sustaining the smaller settlements and the countryside. It is noted that the Spatial Growth Strategy has been adjusted since the Preferred Options Paper (POP) and the distribution of the indicator is set out in Figure 5 of the draft Plan Strategy. This indicates 47% to the main towns of Enniskillen and Omagh. The Council should consider whether the

⁵ Paragraph 1.2 Development Plan Practice Note 'Plan Strategy'

allocation to main towns is consistent with the Spatial Growth Strategy objective to strengthen the role of the Hubs as residential centres in light of the approach to the countryside.

13. The Department notes the allowance of 23% made to the countryside which as stated is a reduction from 27.1% proposed in the POP. Whilst the RDS 2035 recognises that a proportion of housing need will be built in the open countryside this allocation nevertheless represents a significant number of new dwellings – 1432 of the housing allocation. The RDS 2035 Spatial Framework Guidance, in relation to sustaining rural communities living in smaller settlements and the open countryside⁶, emphasises a sustainable approach so growth does not exceed the capacity of the environment or essential infrastructure.
14. The analysis presented in the Housing Paper, dated October 2018, indicates that 895 units were completed in the countryside in period 2012 – 2017 and therefore the allowance until the end of the plan period is 537 dwellings⁷. The paper acknowledges that the level of completions in the countryside is at a level far above the proposed spatial distribution outlined in the Spatial Growth Strategy. The Department notes the analysis by the Council that approximately 50% of these approvals pre-date the current policy context. Notwithstanding the policy under which they are approved, these dwelling completions contribute to meeting the housing need indicated by the HGI for the period 2012 - 2025. The actual number of dwellings approved will depend upon the application of LDP policy for Development in the Countryside. In view of this the Council must consider if the policy approach to development in the countryside is consistent with the remaining allowance (537) to the countryside made under the Spatial Growth Strategy. This matter is addressed later in this response.
15. The Council is reminded of the advice within DPPN 07 'Plan Strategy' that the justification and evidence for the housing strategy must be comprehensive and robust to withstand the tests of Soundness at Independent Examination⁸. It is also necessary to demonstrate that the housing strategy contributes to the sustainability objectives of the Plan Strategy whilst meeting the requirements of the Council's Community Plan and wider regional planning framework set by the RDS 2035 and SPPS.

⁶ SFG 13 'Sustain rural communities living in smaller settles and the open countryside'

⁷ Housing Paper October 2018

⁸ Development Plan Practice Note 07 'Plan Strategy' Para 13.5

Strategic allocation of land in settlements

16. In addition to the HGI the SPPS states that housing allocations in LDPs should be informed by a range of other considerations including use of the RDS Housing Evaluation Framework; allowance for existing housing commitments (including approvals not yet constructed); Housing Needs Assessment/ Housing Market Analysis as well as an allowance for windfall⁹.
17. The Department acknowledges the legacy of housing commitments and zonings in existing area plans and welcomes the work of the Council to establish their extent. In accordance with the advice set out in the SPPS this aspect should form part of the consideration that informs the allocation of housing growth to individual settlements as part of the Spatial Growth Strategy.
18. In this regard, the Department notes the allocation set out in Table 4 'Strategic Allocation of Land for Housing'. This indicates the overall strategic allocation of land required to meet housing need in settlements for the period 2017 – 2030. As an example it allocates 979 dwelling units to Enniskillen for this period. The supporting housing paper however identifies that over 1600 dwelling units are hard commitments and/or 'shovel ready' within this hub at July 2017. Similarly the Council acknowledges that in all but one of the local towns commitments exceed the housing growth allocated as part of the Spatial Growth Strategy.
19. In apportioning significantly fewer units to main and local towns than those already approved within these settlements the Growth Strategy appears not to account for, or reflect, the true extent of the housing growth committed through extant planning approvals. The housing provision within settlements should reflect the growth strategy and settlement hierarchy for the plan area as well as aim to provide for sustainable forms of development¹⁰.
20. Soundness Test CE1 will examine whether the plan sets out a coherent strategy and whether the strategy, policies and allocations are realistic, appropriate and based on robust evidence.

Urban Capacity Study and Windfall allowance

21. The Department would highlight the need for the Council to undertake an Urban Capacity Study (UCS) and further analysis to inform a windfall allowance. An UCS is an integral part of plan preparation providing a comprehensive analysis of the potential for future housing growth within the urban footprint. In the Department's view an UCS is an important step to help inform the sustainable

⁹ Paragraph 6.139 Strategic Planning Policy Statement

¹⁰ Paragraph 13.2 Development Plan Practice Note 7 'Plan Strategy'

approach to housing development proposed through the phased release of housing land.

22. The SPPS acknowledges that 'windfall potential arising from previously developed land within the urban footprint can be a key source of housing supply over the plan period'. In line with the objectives of the RDS 2035 it is therefore necessary to make full allowance for this source of supply in order to prevent excessive allocation of housing land. Notwithstanding the quantum of existing commitments and zonings it remains necessary to make an allowance for windfall housing on the basis of past trends. The windfall assessment should be confined to the urban footprint. The Council should ensure that the results of the UCS and windfall analysis justify and support the strategic allocation of housing land allocated to settlements in Table 4.

Draft Strategic Policy SP03 – Strategic Allocation

23. Clarification is sought on the use of the wording 'at least' within SP03. Whilst this appears to acknowledge the position in relation to existing commitments and the countryside, it also contributes to a lack of clarity in relation to the housing figure that the draft Plan Strategy is working to.

Main towns and local towns

24. Draft Policy SP03(a) identifies criteria that will be used when determining the amount of land to allocate for housing. The third criteria is an allowance for windfall housing. Clarification is sought on the strategic allocation of housing land set out in Table 4 which appears to have been made in the absence of an allowance for housing from windfall sources.

Managing the Housing Supply

25. The Department strongly welcomes the Council's approach to phasing the release of land. This represents a more sustainable approach that helps to manage the transition from the provisions of the extant Area Plans. In the Department's view it would have been preferable to further clarify the criteria that will be used to establish the Council's approach to phasing within the draft Plan Strategy itself. This would have provided a clearer framework for the preparation of the Local Policies Plan.

Phase 2 or Reserve Sites

26. The supporting housing paper identifies 'hard and soft' commitments which together exceed housing need in all main and local towns. Therefore clarification is sought on the meaning of the phrase 'permissions (commitments)' within SP03 where these significantly exceed housing need within a settlement.
27. Paragraph (ii) states that development proposals for unallocated Greenfield sites that are within the settlement limits will not be supported. This will also apply to proposals for renewal or existing and lapsed planning permissions. In principle the Department supports the desire of the council to support sustainable forms of development and reduced use of Greenfield land for housing¹¹ However, clarification of the relationship of these Greenfield sites to whiteland within settlements would be welcomed.

Villages and small settlements

28. Policy SP03 indicates subsequent identification of Housing Policy Areas within Villages and Small Settlement tiers. As highlighted above it would have been preferable to have indicated at draft Plan Strategy stage the overall housing provision to settlements in order to establish a framework for more detailed housing requirements in the Local Policies Plan. In particular this would have assisted with appraisal of infrastructure implications/requirements of proposed growth at the level of individual villages and smaller settlements.

Relationship of policy SP03 with policy HOU1 - Housing in Settlements

29. The Department welcomes the emphasis on zoned and brownfield land however the policy also sets out two exceptions where un-zoned Greenfield land may be developed. These include where future housing need exceeds the number of 'permissions (commitments)' or where an unmet need for affordable housing is demonstrated within a Housing Needs Assessment which cannot be met through existing commitments. Clarification is requested of the relationship of these criteria to SP03 'Strategic Allocation and Management of Housing Supply' which states that development proposals on un-zoned Greenfield sites will not be supported. Soundness Test CE1 requires that the DPD sets out a coherent strategy from which its policies and allocations logically flow.

¹¹ Strategic Planning Policy Statement, Page 70, advocates reduced use of Greenfield land for housing and that more urban housing should be accommodated through the recycling of land and buildings and the encouragement of compact town and village forms

30. The Department also considers that there is a need for further clarification of the relationship of the exceptions set out in HOU1 to the phased approach identified in Draft Policy SP03. This is because it appears HOU1 permits the use of un-zoned Greenfield land without consideration of Phase 2 or Reserve sites identified through SP03. If this is correct, what is the trigger for the release of land identified within Phase 2? In principle the Department supports the Council's approach to phase the release of land however it is important that the mechanism is clear and provides the certainty required from a Plan Strategy document.

Development in the Countryside

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

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

CE1 The DPD sets out a coherent strategy from which its policies and locations logically flow and where cross boundary issues are relevant it is not in conflict with the DPDs of neighbouring councils;

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

31. The SPPS seeks to manage growth to achieve appropriate and sustainable patterns of development and aims to strike a balance between protection of the environment from inappropriate development and supporting and sustaining rural communities. The SPPS identifies a range of specific opportunities for residential development in the countryside consistent with its regional strategic objectives, including furthering Sustainable Development.

32. The Department notes the approach to housing in the countryside within the draft Plan Strategy. A number of draft policies (HOU10, HOU11, HOU13, HOU14) provide additional opportunities for residential development in the countryside.

33. Other draft policies provide further opportunities for residential development in the countryside. For example Draft TOU1 'Protection of Tourism Assets and Tourism Development' and Draft HOU8 'Annex Living' are highlighted in particular as providing further scope for additional residential development in the countryside.

34. Therefore the Department considers that the overall approach set out in the draft Plan Strategy could conceivably result in a significant and unsustainable increase in the number of additional dwellings in the countryside. This approach is not supportive of the draft Plan Strategy objective to develop the role of hubs as the main focus for new housing. DPPN 6 identifies that delivery of a Council's strategy will depend upon the implementation and integrity of the policies and proposals contained in the DPD. Policies and proposals should show how a Council's vision, aims and objectives for the future development of the area are to be achieved¹².

35. The Council has not presented any evidence or local justification in relation to the need for these additional opportunities. Furthermore the approach is not supportive of RDS 2035 RG8 to manage housing growth to achieve sustainable patterns of residential development. It also fails to take account of policy and guidance issued by the Department. This includes the SPPS which, whilst providing opportunities for housing development to meet rural needs, advocates sustainable development in locations that facilitate a high degree of integration with centres of employment, community services and public transport.

36. The approach also appears to be inconsistent with the analysis by the Council regarding the number of completions in the countryside versus settlements¹³. The council has identified a clear disparity between dwellings completed in the countryside as compared with settlements across the district. There is concern that in providing additional opportunities to those already contained within strategic policy, there will be a risk in achieving the draft Plan Strategy's objectives i.e. to support the main towns as the focus for new housing. This in turn is likely to contribute to longer term challenges in relation to accessibility to services, unsustainable travel and delivery of infrastructure.

37. Council is reminded that the SPPS advises that in furthering sustainable development it is important to manage housing growth in a sustainable way, placing 'particular emphasis on the importance of the inter-relationship between the location of local housing, jobs, facilities and services, and infrastructure'.

¹² Paragraph 5.5.5 Development Plan Practice Note 6 'Soundness'

¹³ Paragraph 2.5, Housing Paper October 2018.

Cross Boundary working

CE1 The DPD sets out a coherent strategy from which its policies and locations logically flow and where cross boundary issues are relevant it is not in conflict with the DPDs of neighbouring councils;

38. The RDS provides strong regional and sub-regional guidance through a Spatial Framework for Northern Ireland which divides the Region into 5 components based on functions and geography. Implementation depends upon effective joint working between Councils. This engagement is fundamental to ensuring that the aims and objectives of Council LDPs are integrated and provide a coherent, joined up approach to regional planning issues, for example housing growth and infrastructure provision. Such cross boundary working also ensures that LDPs do not conflict with each other and that potential areas of conflict are identified and resolved prior to a Development Plan Document being submitted to the Department to cause an Independent Examination. The Chief Planner's letter dated September 2017 refers.
39. The Council has acknowledged the wider challenges and opportunities arising from its unique location bordering Derry City and Strabane and Mid Ulster Councils in Northern Ireland and four counties in the Republic of Ireland. Engagement of the Council through forums such as the Sperrin Forum and Cross Border Forum are noted. The Department welcomes recognition of the need to work with neighbouring local authorities to provide consistency of approach in areas such as minerals development and wind energy and in relation the Sperrin Area of Outstanding Natural Beauty (AONB). The Department is supportive of this ongoing work as this is an important aspect of soundness that will be examined at IE.
40. Specifically in relation to the Sperrin AONB it is noted that draft Policy L01 seeks to protect against any development which could be likely to adversely affect the AONB and protect against piecemeal erosion of its distinctive character. It is not clear, however, how this policy offers greater protection to this exceptional landscape over and above the general policies for development in the countryside. Furthermore, it is unclear if the draft policy has taken into account the approaches of neighbouring councils to this shared resource. Council should be able to demonstrate that policy in respect of this cross-boundary designation does not conflict with the DPDs of neighbouring councils as required by Soundness Test CE1.
41. Cross boundary working is particularly important in securing wider regional planning objectives in relation to co-operation between areas. This is

particularly relevant in the context of Enniskillen which is identified in the RDS 2035 as performing an inter-regional gateway function. As acknowledged in the RDS there are opportunities for Enniskillen and Sligo to work together to provide services on a cross border basis.

Infrastructure availability

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

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

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

42. In line with the draft Programme for Government (PfG) the Department is focused on supporting inclusive growth by connecting people and opportunities through infrastructure.

43. Development Plan Practice Note (DPPN) 07 'Plan Strategy' indicates that the Strategy should show how the objectives for a council area may be delivered and by whom, and when. This includes 'making it clear how infrastructure needed to support a Plan Strategy will be provided and ensuring that it is consistent with other relevant plans and strategies relating to adjoining areas'. The Practice Note further advises that the Plan Strategy should be both realistic and deliverable, taking into account the resources available and any potential constraints which may arise during the plan period. DPPN 06 'Soundness' indicates that it may also be necessary to set out the infrastructure that will be required to support the DPD and ensure that it remains in line with prevailing regional policy and other relevant plans and programmes both within and beyond a council area.

44. The RDS 2035 seeks to support strong, sustainable growth for the benefit for all parts of Northern Ireland. Importantly it identifies the need for a co-ordinated approach to the provision of services, jobs and infrastructure and a focus on co-operation between service providers. It also acknowledges that creating a critical mass to support a level of services raises challenges for service providers in meeting the needs of spatially dispersed populations¹⁴. In this

¹⁴ Paragraph 2.16 Regional Development Strategy 2035

respect the Council's approach to development in the countryside, addressed above, has significant implications for the delivery of services and infrastructure across the Council district.

45. Of particular relevance is RG8 '*Manage housing growth to achieve sustainable patterns of residential development* and RG12: '*Promote a more sustainable approach to the provision of water and sewerage services and flood risk management*'. These regional guidelines emphasise the importance of the relationship between the location of housing, jobs, facilities and infrastructure. The availability of necessary infrastructure, including sustainable water resources and sewerage capacity is particularly important.
46. RG12 specifically highlights a requirement for close cooperation between planning authorities and the water industry in the preparation of local development plans. The Department would highlight the need to have full regard to capacity restrictions of Waste Water Treatment Works (WwTWs) and associated networks. NI Water has previously supplied the Council with data regarding the capacity restrictions on many WwTWs in the Council area. There is little discussion of capacity constraints within Chapter 6 (Infrastructure) which states only that it has been identified that some settlements have no remaining capacity within the waste water treatment infrastructure'.
47. Furthermore the Spatial Strategy Map does not identify other villages or small settlements which may be subject to capacity constraints. The absence of detail in relation to growth proposed to individual settlements within these tiers is a concern. Wastewater capacity will be a key consideration when zoning land for development within these settlements in the subsequent Local Policies Plan. As already stated it would have been preferable to identify within the draft Plan Strategy the overall housing growth to individual villages and smaller settlements. This in turn would provide greater certainty in relation to capacity of infrastructure available to support proposed growth at the level of individual settlements as well as providing a basis for subsequent zonings/ policy areas within the Local Policies Plan.

Monitoring

CE3 – There are clear mechanisms for implementation and monitoring.

48. A council may revise its Plan Strategy or Local Policies Plan at any time (after adoption), or by direction by the Department. This requires councils to keep under review the implementation of their plans to ensure that LDP objectives are being achieved.
49. The Department notes the provisions in draft Plan Strategy on monitoring and welcomes the range of issues identified within the monitoring framework. However there are a limited number of issues that have targets identified and Council may find it difficult to measure policy effectiveness without specific targets to trigger a need for review. DPPN 6 states that 'monitoring is essential for the delivery of the DPD and should provide the basis to trigger any requirement to amend the strategy, policies and proposals of the DPD'.

Summary

50. Following consideration of representations and counter representations, if the council considers the plan is still sound it should prepare its consideration setting out the main issues including potential amendments (if any, and while maintaining soundness) for consideration at IE.



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

Fermanagh & Omagh Draft Plan Strategy Representations Form

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

How to respond

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

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

SECTION 1. Contact Details

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

First Name

John

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SECTION 2. Representation

What is your view on the Draft Plan Strategy?

Sound

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

DfI Rivers considers the Draft Plan Strategy to be essentially sound, however there are 11 Suggested Modifications and 2 Recommendations that could be made to the flood risk management policies that would significantly improve them without detriment.

The 11 Suggested Modifications and 2 Recommendations are detailed in the section entitled "Modifications" below.

(Continue on a separate sheet if necessary)

OR

Unsound

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

Soundness Test No:

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

- P2 Has the council prepared its Preferred Options Paper and taken into account any representations made?**
- P3 Has the Draft Plan Strategy been subject to sustainability appraisal including Strategic Environmental Assessment?**
- P4 Did the council comply with the regulations on the form and content of its Draft Plan Strategy and procedure for preparing the Draft Plan Strategy?**
- C1 Did the council take account of the Regional Development Strategy?**
- C2 Did the council take account of its Community Plan?**
- C3 Did the council take account of policy and guidance issued by the Department?**
- C4 Has the plan had regard to other relevant plans, policies and strategies relating to the council's district or to any adjoining council's district?**
- CE1 Does the Plan Strategy sets out a coherent strategy from which its policies and allocations logically flow and where cross boundary issues are relevant it is not in conflict with the Draft Plan Strategies of neighbouring councils?**
- CE2 Are the strategy, policies and allocations realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base?**
- CE3 Are there clear mechanisms for implementation and monitoring?**
- CE4 Is it reasonably flexible to enable it to deal with changing circumstances?**

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

- (i) Relevant Paragraph**
- (ii) Relevant Policy**
- (iii) Proposals Map**
- (iv) Other**

Details

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

(Continue on a separate sheet if necessary)

Modifications

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

Suggested Modification 1

Applicable to:

Draft Policy FLD01 - Development in Floodplains – Exception b) Undefended Areas: replacement buildings

Suggested modification 1:

The draft policy should exclude:

1. Bespoke accommodation for vulnerable groups.
2. Essential infrastructure.

Reason for suggested modification 1:

Not having these exclusions could:

1. Put vulnerable groups at risk and potentially lead to loss of life in the event of flooding
2. Potentially result in loss of essential/critical infrastructure and the services it provides.

This is a weakening of policy when considered against the existing policy framework.

Suggested Modification 2

Applicable to:

Policy Clarification Paragraph 6.4

Suggested modification 2:

The clarification should include a technical definition of a flood plain and should reflect the forthcoming DfI guidance on climate change **“Technical flood risk guidance in relation to allowances for climate change in Northern Ireland”**. The key relevant guidance may be summarised as:

1. The application of a climate change allowance and then a further 600 mm freeboard (rather than the current practice of the 600 mm freeboard allowance containing the climate change allowance).
2. Changing Flood Maps NI climate change flood mapping from 2030 Epoch to 2080 Epoch.
3. Changing from present day flood mapping to climate change flood mapping for Development Management.

This means that for the purposes of policy FLD 01, the definition of a flood plain will have to change from the current **1% Annual Exceedance Probability PRESENT DAY** to **1% Annual Exceedance Probability CLIMATE CHANGE 2080 EPOCH**.

DfI Rivers can advise the Council on interpreting the climate change guidance and the wording for a technical definition of a flood plain.

Reason for suggested modification 2:

The Council's Flood Risk Management policy must take into account the latest guidance on climate change issued by DfI.

If there is any ambiguity or lack of clarity in the technical definition of a flood plain, it has the potential to be exploited and could result in development being at risk of flooding that otherwise would not have been.

Suggested Modification 3

Applicable to:

Policy Clarification Paragraph 6.5

Suggested modification 3:

The policy clarification should state that flood defences should be confirmed by DfI Rivers as the competent authority to be structurally adequate and provide a minimum standard of 1% Annual Exceedance Probability fluvial flood protection.

Reason for suggested modification 3:

Failure to include these requirements could result in development that is protected by flood defences that are structurally inadequate or that may be overtopped by flood water and has the potential to impact many properties and put many lives at risk.

Suggested Modification 4

Applicable to:

Policy Clarification Paragraph 6.10

Suggested modification 4:

The policy clarification should include wording along the lines suggested thus “Where a Drainage Assessment is not required but there is potential for surface water flooding as indicated on Flood Maps NI, it is the developer’s responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site”

Reason for suggested modification 4:

To emphasise that it is the developer’s responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site. It should be a core requirement of all flood risk policies that proposed development should not be at risk of flooding nor should it increase flood risk elsewhere.

Suggested Modification 5

Applicable to:

Draft Policy FLD03 - Sustainable Drainage Systems (SuDS)

Suggested modification 5:

Suggest that the policy replaces the word “must” with “where practicable”.

Reason for suggested modification 5:

In some circumstances it may not be possible to use SuDS as the main form of surface water drainage although some elements of SuDS may be incorporated in a conventional drainage design to augment them e.g. green roofs, water butts, porous paving etc. DfI Rivers recognises that in most instances, drainage systems will have to incorporate some form of storm water attenuation.

Suggested Modification 6

Applicable to:

Draft Policy FLD04 - Protection of Flood Defences and Drainage Infrastructure and Policy Clarification paragraph 6.17

Suggested modification 6:

The policy requires a 5 metre working strip adjacent to all **Designated** watercourses. This should be changed to a minimum 5 metre working strip adjacent to **all watercourses and flood defence and drainage infrastructure.**

The policy clarification should elaborate on what comprises flood defence and drainage infrastructure, which would typically be any weir, flow control structure, flood gate, flood wall, flood barrier or flood bank.

Reason for suggested modification 6:

To adopt the Council's proposed policy would be weakening of the current policy framework and would not be compliant with paragraph 6.123 of the Strategic Planning Policy Statement for Northern Ireland.

All watercourses and culverts (designated or otherwise) and flood defence and drainage infrastructure require regular maintenance and/or repairs to prevent drainage problems and flooding. Such problems arising from inadequate maintenance of flood defence and drainage infrastructure can put lives and property at risk if there is a flood.

Suggested Modification 7

Applicable to:

Draft Policy FLD05 - Artificial Modification of Watercourses

Suggested modification 7:

The draft policy states "it can be demonstrated that a specific length of watercourse needs to be culverted for engineering reasons and that there are no reasonable or practicable alternative courses of action".

The draft policy should be changed to "it can be demonstrated **to the satisfaction of DfI Rivers** that a specific length of watercourse needs to be culverted for engineering reasons and that there are no reasonable or practicable alternative courses of action".

Reason for suggested modification 7:

In some instances, developers have put forward reasons for culverting that DfI Rivers would not consider to be valid engineering reasons.

If there is no policy to support the suggested amendment, it could result in open watercourses being culverted unnecessarily thus increasing flood risk. This would also have adverse environmental impacts.

Suggested Modification 8

Applicable to:

Draft Policy FLD06 - Development in Proximity to Reservoirs

Suggested modification 8:

The title of the policy should be revised to read 'Draft Policy FLD06 – Development in Proximity to **Controlled** Reservoirs.

Reason for suggested modification 8:

The policy does not apply to all reservoirs – it applies only to Controlled Reservoirs as defined by the Reservoirs Act (Northern Ireland) 2015.

Suggested Modification 9

Applicable to:

Draft Policy FLD06 - Development in Proximity to Reservoirs

Suggested modification 9:

Substantive reference to the requirement for a Flood Risk Assessment (FRA) is missing from the draft policy. It is suggested that Council's policy also includes this requirement.

Reason for suggested modification 9:

The FRA is an essential component of the Department's SPPS and FLD5. The 4th bullet point of the draft policy makes reference to a 'FRA' and the 'Policy Clarification' advises that 'It is therefore necessary that proposals within the inundation area are accompanied by a FRA'.

Suggested Modification 10

Applicable to:

Draft Policy FLD06 - Development in Proximity to Reservoirs

Suggested modification 10:

The draft policy should allow for the control of replacement buildings within the inundation area of a Controlled Reservoir.

Reason for suggested modification 10:

A proposal for the replacement of an existing building within the potential flood inundation area downstream of a Controlled Reservoir should be acceptable where is accompanied by a Flood Risk Assessment which demonstrates that there is no material increase in the flood risk to the development or elsewhere.

This is a well-established approach in the current policy framework which should be retained.

Suggested Modification 11

Applicable to:

Policy Clarification Paragraph 6.21

Suggested modification 11:

"Reservoirs Act 2015" should read as "Reservoirs Act (Northern Ireland) 2015"

The Council should clarify who is a 'suitably qualified engineer'. The Department has clarified in para 2.3 of its Technical Advice Note of August 2018 that a 'suitably qualified engineer' is an All Reservoirs Panel Engineer. It will soon issue a revised version of the Technical Advice Note that a 'suitably qualified engineer' is a Reservoirs Panel Engineer who is a member of one of the following Panels:

- An All Reservoirs Panel;
- Service Reservoirs Panel; or
- Non-Impounding Reservoirs Panel.

Recommendation 1

Applicable to:

Appendix 6: Requirements of a Drainage Assessment (DA) and Flood Risk Assessment (FRA)

Recommendation:

DfI Rivers is currently preparing a detailed specification for a DA and FRA. These documents will be published on the DfI website.

DfI Rivers recommends that the Council uses the DfI Rivers DA and FRA specifications as they are more detailed and specify the methodologies required for the various calculations.

DfI Rivers will require all DAs and FRAs to use their specification and accompanying pro-forma.

Recommendation 2

Applicable to:

Draft Policy OSR05 – Development Adjacent to a Main River

Recommendation

DfI Rivers advises the Council that it should consider the wording of this policy in the context of Suggested Modification 6 applicable to Draft Policy FLD04 - Protection of Flood Defences and Drainage Infrastructure and Policy Clarification paragraph 6.17.

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

Written Representations

SECTION 3. Data Protection and Consent

Data Protection

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

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

Consent to Public Response

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

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

Yes with my name and/or organisation

Yes, but without my identifying information

Signature



Date

05 December 2018

SECTION 2. Representation

What is your view on the Draft Plan Strategy?

Sound

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

OR

Unsound

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

Soundness Test No:

- P1 Has the Draft Plan Strategy been prepared in accordance with the council's timetable and the Statement of Community Involvement?**
- P2 Has the council prepared its Preferred Options Paper and taken into account any representations made?**
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- C3 Did the council take account of policy and guidance issued by the Department?**
- C4 Has the plan had regard to other relevant plans, policies and strategies relating to the council's district or to any adjoining council's district?**
- CE1 Does the Plan Strategy sets out a coherent strategy from which its policies and allocations logically flow and where cross boundary issues are relevant it is not in conflict with the Draft Plan Strategies of neighbouring councils?**
- CE2 Are the strategy, policies and allocations realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base?**

- CE3 Are there clear mechanisms for implementation and monitoring?**
- CE4 Is it reasonably flexible to enable it to deal with changing circumstances?**

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

- (i) Relevant Paragraph**
- (ii) Relevant Policy**
- (iii) Proposals Map**
- (iv) Other**

Details

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

The Department provided a response to the POP dated the 28th November 2016 advising the following “*The Department is of the view the Council should carefully consider the provisions of PPS 3 and PPS 13 and reflect these appropriately*”. The Council were further advised of this position on 31st January 2018 through engagement on their initial draft Transport Policies. The comments back on these initial policies relayed our concerns that the policy wording did not fully address access to public roads, road safety, traffic progression, car parks, active travel (walking and cycling) and public transport.

It is our view that this draft policy is totally focused on the car and traffic. Accessibility appears in the title however it is not considered or referred within the policy wording. As well as car parking proposals being inadequate, no reference is made to active travel and sustainable transport. It is considered that these modes should be a key consideration due to their alignment with Programme for Government outcomes 2 and 11, for which the Department is responsible.

The SPPS does not provide detail on access arrangements to public roads that are not classed as protected routes. Therefore the Department would consider it is crucial that, any new policy wording contained within the Fermanagh & Omagh Plan Strategy gives full protection to access arrangements in the interests of public safety and all road users. It is important to fully consider the effect any proposed new development will potentially have on the transport network. A well designed access is important for the safety and convenience of all road users therefore the Council should ensure appropriate policy wording is included in the LDP.

Modifications

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

Point (b) of Draft Policy TR01 is welcomed however the rest of the policy wording is inadequate for access arrangements onto a public road. The Department would expect FODC to give further detailed consideration on the policy wording to reflect, direct access, or the intensification of use of an existing access onto a public road, how direct access or the intensification of use of an existing access would not conflict with the Protected Routes, consider the number and location of access points already onto the public road, the acceptability of access arrangements, nature and scale of development, character of existing development, contribution of the proposal to the creation of a quality environment, and the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.

Point (c) makes reference to “the current published council parking standards” clarification should be provided on the document being referred to. The SPPS states “in assessing the

appropriate amount of car parking, account should be taken of the specific characteristics of the development and its location, having regard to the Department's published standards and any reduction in standards provided for through the LDP or Transport Assessment" (paragraph 6.304). The Department would expect the policy to reflect that all car parking and their servicing proposals should not prejudice road safety or significantly inconvenience the flow of people and goods.

DfI are committed to achieving an increased proportion of journeys made by walking, cycling and public transport. In order to achieve this, walking and cycling as everyday modes of transport, within urban areas, must be made easier. A major concern which discourages people from walking and cycling is the lack of good quality infrastructure. New development should incorporate safe, high quality walking and cycling routes and provide links to existing or planned footway/cycle networks. Planning authorities have a key role to play in this through the LDP and development management process. Policy wording should support new developments providing safe and convenient pedestrian and cycle use, safe and convenient and secure cycle parking facilities having regard to the Departments published standards. Any major employment generating development would also be required to make appropriate provision for shower and changing facilities as this is considered important in encouraging walking and cycling.

In line with the SPPS paragraph 6.297 DfI Roads are committed to sustainable patterns of development which reduce the need for motorised transport, encourages active travel and facilitate travel by public transport in preference to the private car. The Department would expect any new policy to support this.

The SPPS identifies the need to "ensure accessibility for all, with the needs of people with disabilities and others whose mobility is impaired given particular consideration" (paragraph 6.297). To build on paragraph 6.302 of the SPPS The Department would expect any new policy wording to take account of the provision of facilities to aid accessibility e.g. provision of dropped kerbs, tactile paving etc. together with the removal of any unnecessary obstructions, allow for the convenient movement along pathways and an unhindered approach to buildings, pedestrian/ cycling priority to facilitate pedestrian/ cycle movement within and between land uses, ease of access to reserved/accessible car parking, public transport facilities and taxi ranks. The development of a new building open to the public, or to be used for employment or education purposes, should only be permitted where it is designed to provide suitable access for all, whether as customers, visitors or employees. In such cases the Council should operate a presumption in favour of a level approach from the boundary of the site to the building entrance and the use of steps, ramps or mechanical aids should only be permitted where it is demonstrated that these are unavoidable and can be facilitated from the public footway without overly impairing available width. Development should be designed to facilitate ease of access for all pedestrians including wheelchair users, not only to the building entrance but also to and from the pedestrian environment around the building. Access to existing buildings and their surroundings should be improved as opportunities arise through alterations, extensions and change of use. Where appropriate, an Access Statement should be required to accompany development proposals.

In addition to the significant issues relating to “soundness” outlined above, the following comments are also offered in relation to Draft Policy TR01 Land Use, Transport and Accessibility

Page 163 Draft Policy TR01 – Land Use, Transport and Accessibility –

- The Department consider it important that the current guidance document “Creating Places – Achieving Quality in Residential Developments is referenced.” This guidance demonstrates how quality places, whether created in rural surroundings or an urban setting, will respect their context and make the most of the existing site characteristics. A well designed layout protects and respects natural habitat and heritage, encourages walking and cycling and provides convenient access to public transport. This guide also sets the basis for road layouts that can be adopted by the Department. Failure to refer to this guidance could result in unacceptable layouts being proposed for adoption through the planning process for which there will be no guidance to fall back on. If this position arises, it will be for the Council to consider how such developments will be privately maintained and the resulting impact for access by emergency services, public transport, bin collections and indeed the whole conveyance process.
- The policy wording needs to reflect that a Transport Assessment will be required we would suggest including the requirement for a Travel Plan in this policy.
- The following guidance for Transport Assessments should also be referred to in order to ensure Transport Assessments are properly considered for development proposals. “Transport Assessment Guidelines for Development Proposals in Northern Ireland – October 2006”
- Paragraph 6.36 on Page 163 indicates that the effective management of off-street parking will be addressed through the Council’s Parking Strategy and Action Plan (March 2018). – Page 53 of this Parking Strategy and Action Plan mentions “Planning Service Parking Standards”. There is also reference to the current Published Council Parking Standards in the Draft Plan Strategy. Clarity should be provided on these referred documents and what parking standards are to be used in the new LDP.

Page 164 Draft Policy TR01 – Land Use, Transport and Accessibility - paragraph 6.38 –

- The Department would suggest removing “traffic, particularly on our local roads” and replacing with “*people and goods on all our roads*”

Page 164 Draft Policy TR01 – Land Use, Transport and Accessibility - paragraph 6.41 –

- The Department would suggest removing the wording “Therefore developers are required to provide requisite visibility splays under their control which are retained from obstructions at all times” and replacing with “*The Council will expect developers/applicants to have control over the land required to provide the requisite*”

visibility splays and ensure that they are retained free from any obstruction. A condition will normally be imposed requiring that no development shall take place until the works required to provide access, including visibility splays, have been carried out.”

After the reference to DCAN 15 additional wording should include – *“DCAN 15 also includes guidance on special requirements for access onto a Trunk Road. The current standards for access within new residential developments are set out in the Creating Places; Achieving Quality in Residential Developments design guide.”*

Page 164 Draft Policy TR01 – Land Use, Transport and Accessibility - paragraph 6.42 – makes reference to a Transport Assessment and a Travel Plan however the role of Accessibility Analysis is not mentioned. It is recommended that Accessibility Analysis is referenced.

The Department would, in the interests of road safety, suggest adding the following bullet points to the Policy Clarification –

- *“It is recognised that it may not always be practicable to comply fully with the appropriate visibility standards. Such standards, like all material considerations, need to be assessed in light of the particular circumstances of the individual case. Exceptionally a relaxation in standards may be acceptable in order to secure other important planning objectives. Visibility standards, however, will not be reduced to such a level that danger is likely to be caused.”*
- *“In circumstances where an existing access is available to facilitate development proposals, the Council will generally expect this to be used, unless there is an opportunity to provide a more acceptable access arrangement, having regard to both road safety and local amenity considerations. Where an existing access is to be used, but is sub-standard, a condition requiring its improvement prior to the commencement of the development will normally be imposed on a grant of planning permission. In cases where a new access is considered acceptable in preference to the intensified use of an existing access a condition requiring the existing access to be closed may be imposed.”*

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

- Written Representations** **Oral Hearing**

SECTION 2. Representation

What is your view on the Draft Plan Strategy?

Sound

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

OR

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

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are relevant it is not in conflict with the Draft Plan Strategies of neighbouring councils?

- CE2 Are the strategy, policies and allocations realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base?**
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Plan Component - To which part of the Draft Plan Strategy does your representation relate?

- (v) Relevant Paragraph**
- (vi) Relevant Policy**
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The Department provided a response to the POP dated the 28th November 2016 advising the following “*The Department is of the view the Council should carefully consider the provisions of PPS 3 and PPS 13 and reflect these appropriately*”. The Council were further advised of this position on 31st January 2018 through engagement on their initial draft Transport Policies. The comments provided on these initial policies relayed our concerns that the policy wording did not fully address access to public roads, road safety, traffic progression, car parks, active travel (walking and cycling) and public transport.

The Department would expect this policy to comply with a town centre parking strategy that meets the requirements of the SPPS and is consistent with the Departments Local Transport Strategy. Local car parking policies must also be brought forward to ensure appropriate provision within new developments, including spaces for people with disabilities and parent and child parking spaces and appropriate servicing arrangements.

Within the policy wording there is no consideration given for prejudicing road safety, inconveniencing the flow of people and goods, congestion, environmental quality, compatibility with the surrounding area, how to address the issue between short/long stay parking, electric charging points. The Department would have expected that these issues would have been accommodated in any proposed policy.

No consideration has been given within the policy wording for the design of new parks or their extension. The Department would have expected this issue to be addressed.

If the need for a temporary car park was shown by a developer that could not be met in the short term by the Council or private sector there is no consideration given within the policy wording for temporary car parks. The Department would have expected this issue to be addressed.

Modifications

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

The Department would have expected the Council to bring forward local policies as indicated in the SPPS.

New policy wording must cover the issues in relation to prejudicing road safety, inconveniencing the flow of people and goods, congestion, environmental quality, compatibility with the surrounding area, how to address the issue between short/long stay parking, electric charging points.

The design of new parks or their extension must be accommodated.

The provision of a temporary car parks if the need is proven must be accommodated.

Clarification is needed on the statement “the current published parking standards” and the Planning Service Parking Standards.”

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

- Written Representations** **Oral Hearing**

SECTION 2. Representation

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- (i) Relevant Paragraph**
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Details

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

The Department provided a response to the POP dated the 28th November 2016 advising the following “*The Department is of the view the Council should carefully consider the provisions of PPS 3 and PPS 13 and reflect these appropriately*”. The Council were further advised of this position on 31st January 2018 through engagement on their initial draft Transport Policies. The comments back on these initial policies relayed our concerns that the policy wording did not fully address access to public roads, road safety, traffic progression, car parks, active travel (walking and cycling) and public transport.

In terms of the current policy proposal, the Department would have serious concerns about the operation of such policy and the appropriate protection of these classes of Protected Route.” There is not enough detail in this proposed policy to cover the Protected Routes network. No consideration has been given to motorways, high standard dual carriageways, other dual carriageways and ring roads. It is accepted at the moment there are none of these types of roads within the Council area however it is crucial that these types of roads are “future proofed” and the appropriate protection given. It is important to remember that the proposed A5WTC is of great local and regional significance and this has been recognised by FODC as indicated on their Proposals Map 1 – North East.

The policy also does not consider the impact of residential developments within the settlement on protected routes.

Modifications

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

The Department would expect that motorways, high standard dual carriageways, other dual carriageways and ring roads would be included in any new policy and afforded the appropriate protection.

Residential developments within settlement limits should be appropriately considered and should only be granted planning permission for a development proposal involving direct access, or the intensification of the use of an existing access: (a) where access cannot reasonably be taken from an adjacent minor road; or

(b) in the case of proposals involving residential development, it is demonstrated to the Department's satisfaction that the nature and level of access onto the Protected Route will significantly assist in the creation of a quality environment without compromising standards of road safety or resulting in an unacceptable proliferation of access points.

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

Written Representations **Oral Hearing**

Modifications continued

The following comments are offered in relation to other Transportation Draft Policies within the Draft Plan Strategy –

Draft Policy TR03 – Provision of Park and Ride and Park and Share Car Parks – Page 166 –

- Draft policy wording is not considered unsound however could be improved by the following suggested wording – *“Park & Share and Park & Ride sites should be developed in appropriate locations to reduce the need to travel by private car and encourage the use of public transport.”*

Draft Policy TR05 – Safeguarding New Transport Schemes – Page 167 –

- Would suggest replacing proposal Map with “Local Development Plan or Transport Plan”
- Paragraph 6.52 – would suggest removing the wording “such as new roads and road improvement schemes “as Transport schemes cover a wider range of infrastructure.

SECTION 2. Representation

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

- (v) Relevant Paragraph**
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- (viii) Other**

Details

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

The Department provided a response to the POP dated the 28th November 2016 advising the following “*The Department is of the view the Council should carefully consider the provisions of PPS 3 and PPS 13 and reflect these appropriately*”. The Council were further advised of this position on the 4th December 2017 and 31st January 2018 through engagement on their initial draft Housing and Transport Policies. The comments back on these initial policies relayed our concerns that the policy wording did not fully address access to public roads, road safety, traffic progression, car parks, active travel (walking and cycling) and public transport.

There is no reference in the policy wording to promoting sustainable travel i.e. walking, cycling, public transport, permeability of sites by active modes, meeting the needs of people whose mobility is impaired, providing adequate vehicular access, parking, movement to and from the public road and movement between internal roads traffic calming measures and respecting existing public rights of way. The proposed policy fails to demonstrate how these will be accommodated.

Modifications

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

The Department would have expected the Council to take into consideration the Programme for Government Outcomes 2 and 11 that commit the Department to securing increased levels of journeys made by walking, cycling and public transport.

All housing/dwelling policies should take proper account of adequate roads infrastructure or the capability to provide this, accessible means of transport i.e. walking, cycling and public transport and the need to ensure accessibility for all.

To ensure an acceptable layout and design Creating Places – Achieving Quality in Residential Development should be referred to. Reference should also be made to the importance of Comprehensive Planning and Master Planning as well as stressing the importance of a Planning Agreement in order to secure key infrastructure. Cross reference to other Transportation policies should be made.

In addition to the significant issues relating to “soundness” outlined above, the following comments are offered in relation to the People and Places –

People and Places – Page 61 Draft Policy HOU01 Housing in Settlements – proposals for housing on unzoned greenfield land needs to consider –

- *“accessibility in terms of walking, cycling and public transport”*

People and Places - Page 70 Draft Policy HOU07 - Conversion and change of use of existing building to Self-Contained Flats, needs to take account of:

- *“any access to the public road will not prejudice road safety or significantly inconvenience the flow of people or goods.”*

People and Places - Page 72 Draft Policy HOU09 – Rural Replacement Dwellings, needs to take account of:

- *“any access to the public road will not prejudice road safety or significantly inconvenience the flow of people or goods.”*

People and Places - Page 74 Draft Policy HOU10 – Replacement of other Rural Buildings, needs to take account of:

- *“any access to the public road will not prejudice road safety or significantly inconvenience the flow of people or goods.”*

People and Places - Page 75 Draft Policy HOU11 – Redevelopment of a former site for dwelling, needs to take account of:

- *“any access to the public road will not prejudice road safety or significantly inconvenience the flow of people or goods.”*

People and Places - Page 76 Draft Policy HOU12 – Dwelling on a farm Business, needs to take account of:

- *“and where practicable access to the dwelling should be obtained from an existing lane.”*

People and Places – Page 81 Draft Policy HOU17 Affordable Housing in the Countryside, needs to take account of:

- *“accessibility in terms of walking, cycling and public transport”*

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

- Written Representations** **Oral Hearing**

SECTION 2. Representation

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- C3 Did the council take account of policy and guidance issued by the Department?**
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- CE1 Does the Plan Strategy sets out a coherent strategy from which its policies and allocations logically flow and where cross boundary issues**

are relevant it is not in conflict with the Draft Plan Strategies of neighbouring councils?

- CE2 Are the strategy, policies and allocations realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base?**
- CE3 Are there clear mechanisms for implementation and monitoring?**
- CE4 Is it reasonably flexible to enable it to deal with changing circumstances?**

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

- | | |
|--------------------------------|------------------------|
| (ix) Relevant Paragraph | Page 39 paragraph 6.23 |
| (x) Relevant Policy | |
| (xi) Proposals Map | |
| (xii) Other | |

Details

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

The Department provided a response to the POP dated the 28th November 2016 and particularly to the Spatial Growth Strategy on the importance of existing infrastructure or the requirement for infrastructure that developers will be expected to deliver to facilitate development.

The Department would have expected the Council to have taken account of these comments in the Draft Plan Strategy as policy considerations.

Modifications

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

Allocation of land for housing should clearly take account of existing infrastructure or the requirement for infrastructure that developers will be expected to deliver to facilitate development.

The Department has concerns regarding the statement that the two main settlements in the Council Area possess the required infrastructure for housing growth. Depending on the land chosen for housing this may not be the case and indeed some existing zonings with the two main settlements require infrastructure upgrades to facilitate housing.

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

- Written Representations** **Oral Hearing**

SECTION 2. Representation

What is your view on the Draft Plan Strategy?

Sound

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

OR

Unsound

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

Soundness Test No:

- P1 Has the Draft Plan Strategy been prepared in accordance with the council's timetable and the Statement of Community Involvement?**
- P2 Has the council prepared its Preferred Options Paper and taken into account any representations made?**
- P3 Has the Draft Plan Strategy been subject to sustainability appraisal including Strategic Environmental Assessment?**
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- CE3 Are there clear mechanisms for implementation and monitoring?**
- CE4 Is it reasonably flexible to enable it to deal with changing circumstances?**

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

(xiii) Relevant Paragraph

(xiv) Relevant Policy

OSR02 Page 87

(xv) Proposals Map

(xvi) Other

Details

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

Despite the engagement and comments provided to the Council's initial draft policies no reference has been made to the road network being able to safely handle the extra vehicular traffic any proposal would generate, satisfactory arrangements being provided for site access, car parking, drainage and waste disposal. Improvements to infrastructure may also be necessary.

The Department would consider that point "d" of the Draft Policy for "outside a settlement limits" should also apply to intensive sports facilities that are "within settlement limits"

Modifications

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

The Department would have expected the Council to incorporate the comments provided in relation to this policy area. In the interests of road safety it is crucial that any new policy wording gives protection to the comments mentioned above and that there is cross referencing of the Transport Policies to ensure consistency of approach.

It is crucial that intensive sports facilities within settlement limits has policy wording included in order to ensure any facility is convenient and accessible for everybody and is easily accessible in terms of walking, cycling and public transport. (as indicated above).

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

- Written Representations** **Oral Hearing**

SECTION 2. Representation

What is your view on the Draft Plan Strategy?

Sound

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- CE3 Are there clear mechanisms for implementation and monitoring?**
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Plan Component - To which part of the Draft Plan Strategy does your representation relate?

(xvii) Relevant Paragraph

(xviii) Relevant Policy

OSR 03 Page 88

(xix) Proposals Map

(xx) Other

Details

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

Despite the engagement and comments provided to the Council's initial draft policies no reference has been made to the road network being able to safely handle the extra vehicular traffic any proposal would generate, satisfactory arrangements being provided for site access, car parking, drainage and waste disposal. Improvements to infrastructure may also be necessary.

Modifications

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

The Department would have expected the Council to incorporate the comments provided in relation to this policy area. In the interests of road safety it is crucial that any new policy wording gives protection to the comments mentioned above and that there is cross referencing of the Transport Policies to ensure consistency of approach

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

Written Representations **Oral Hearing**

SECTION 2. Representation

What is your view on the Draft Plan Strategy?

Sound

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

- | | |
|---------------------------------|------------------------------------|
| (xxi) Relevant Paragraph | <input type="text"/> |
| (xxii) Relevant Policy | <input type="text" value="TOU02"/> |
| (xxiii) Proposals Map | <input type="text"/> |
| (xxiv) Other | <input type="text"/> |

Details

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

Despite the engagement and comments provided to the Council in relation to their initial draft policy on Tourism there is no reference in the policy wording to promote or support walking, cycling, meet the needs of people whose mobility is impaired, providing adequate and convenient access to public transport, safe and convenient access arrangements to the public road that do not prejudice road safety.

Modifications

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

The Department would have expected provision to be made in any new policy that would support the Programme for Government Outcomes 2 and 11. The needs of people whose mobility is impaired, safe access arrangements that do not prejudice road safety or significantly inconvenience the movement of people and goods, adequate and convenient access to public transport, respects existing public rights of way, adequate parking and turning facilities should also be addressed. The Council should also consider if the existing road network can safely handle any extra vehicular traffic that any proposal will generate and if not infrastructure improvements would be required. Access onto a protected route for a tourism development in the countryside should be in accordance with Protected Routes Policy TR04. There should be direct reference to other Transport policies to ensure read across.

Page 113-Page 114 - The Tourism Context and Justification or the Tourism Strategy makes no reference to -

- promoting or supporting walking, cycling, and meeting the needs of people whose mobility is impaired and providing adequate and convenient access to public transport. Safe and convenient access arrangements to the public road that do not prejudice road safety should also be referenced.

The Department would have considered it necessary to have reference made to these important issues as policy considerations.

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

Written Representations **Oral Hearing**

SECTION 2. Representation

What is your view on the Draft Plan Strategy?

Sound

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- CE3 Are there clear mechanisms for implementation and monitoring?**
- CE4 Is it reasonably flexible to enable it to deal with changing circumstances?**

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

(xxv) Relevant Paragraph

(xxvi) Relevant Policy

RE01 Page 159

(xxvii) Proposals Map

(xxviii) Other

Details

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

The Department recognises that point “m” under Wind Energy Proposals covers certain aspects of road safety when these wind farms are under construction. However the proposed policy wording does not give sufficient cover or protection in relation to the full construction or operation process e.g. position of the turbines.

The Department would also have expected that under the Councils “Large Scale Mounted Solar PV Installations” policy wording would have considered the same wording as contained within point “m” above for Wind Energy Proposals. This would ensure that the same protection for entrance arrangements, local road network adequacy and transportation of plant and materials are provided.

Modifications

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

The Department would expect any new policy wording to include coverage on the positioning of new wind turbines. The following policy wording should be considered –

“Although wind turbines erected in accordance with best engineering practice are considered to be stable structures, they should be set-back at least fall over distance plus 10% from the edge of any public road, public right of way or railway line so as to achieve maximum safety.”

The Department would also expect any new policy wording for Large Scale Mounted Solar PV Installations to match point “m” as above.

Reference should also be made to other Transport Policies to ensure there is read across.

The following wording should be considered under Policy Clarification -

“The road access to a wind farm site will need to be able to accommodate trailers carrying the longest loads (usually the blades), as well as the heaviest and widest loads (generally the cranes required in erection). Amendments to existing roads required to gain access to site should be detailed in any wind farm planning application.”

“Applicants are advised to consult at an early stage with DfI Roads Service for development affecting public roads. In the case of railway lines consultation should take place with Translink.”

“Concern is often expressed over the effects of wind turbines on car drivers, who may be distracted by the turbines and the movement of the blades. Drivers are faced with a number of varied and competing distractions during any normal journey, including advertising hoardings, which are deliberately designed to attract attention. At all times drivers are required to take reasonable care to ensure their own and others’ safety. Wind turbines should therefore not be treated any differently from other distractions a driver must face and should not be considered particularly hazardous. The provision of appropriately sited lay-bys for viewing purposes may be helpful in giving an opportunity to view the wind energy development in safety; lay-by size should be adequate to cater for tour buses.”

The degree of disturbance caused by the construction phase of a wind farm will depend on the number of turbines and the length of the construction period. Public perception of the construction phase will derive mainly from physical impact and traffic movements. The traffic movements to be expected will involve:

- *vehicles bringing aggregate to the site including concrete for foundations;*
- *vehicles removing spoil from the site;*
- *vehicles (which may be articulated) bringing turbine components to the site;*
- *the vehicles of those working on the site; and,*
- *the crane(s) to erect the turbines.*

Although construction traffic for a wind turbine development will essentially be no different from other developments, many turbines will be sited in areas served by the minor road network. In such cases, it may be necessary to impose suitable conditions on consents or enter a legal agreement with the developer to control the number of vehicle movements to and from the site in a specified period and, where possible, the route of such movements, particularly by heavy vehicles. Further requirements for strengthening bridges may also be required by the DfI Roads Service. Where culverting of any watercourse under site roads is planned consent from the DfI Rivers Agency will also be required. .

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

- Written Representations** **Oral Hearing**

SECTION 2. Representation

What is your view on the Draft Plan Strategy?

Sound

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

OR

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

Soundness Test No:

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- CE3 Are there clear mechanisms for implementation and monitoring?**
- CE4 Is it reasonably flexible to enable it to deal with changing circumstances?**

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

(xxix) Relevant Paragraph

(xxx) Relevant Policy

WM01 Page 173

(xxxi) Proposals Map

(xxxii) Other

Details

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

Despite the engagement and comments provided to the Council in relation to their initial draft policy on Waste there is no reference in the policy wording to cover the issues of road safety, infrastructure improvements, parking and turning within the site, etc. The current draft policies do not take proper account or provide full coverage for road safety and the required infrastructure to facilitate development proposals.

The proposed policy wording – “Additionally, where a waste management facility is of a regional scale it must be accessible to a key transport corridor and not have an unacceptable adverse impact upon road safety and convenience of road users.” gives the impression that an access can be created/approved onto a key transport corridor.

Modifications

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

The policy wording would benefit if coverage included for access to the site, nature and frequency of traffic movements to the site, ensure that the safety and convenience of road users will not be prejudiced, no nuisance will be caused by noise, dust, dirt to local residents. The public road should be able to accommodate the extra traffic generated by the proposal and if not it should be satisfactorily upgraded and adequate arrangements for parking, servicing and turning within the site is provided.

To avoid any ambiguity or confusion consideration should be given to rewording - “Additionally, where a waste management facility is of a regional scale it must be located close and benefits from easy access to key transport corridor and not have an unacceptable adverse impact upon road safety and convenience of road users. In terms of direct access the protected routes policy would also apply.

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

- Written Representations** **Oral Hearing**

SECTION 2. Representation

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

- (xxxiii) Relevant Paragraph**
- (xxxiv) Relevant Policy**
- (xxxv) Proposals Map**
- (xxxvi) Other**

Details

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

Despite the engagement and comments provided to the Council's initial draft policies advising them on road safety, access movement and parking, the proposed policy offers no coverage to these issues or cross reference to suitable transport policies.

Modifications

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

The policy wording would benefit if coverage included for access to the site, nature & frequency of traffic movements and ensure that the safety and convenience of road users will not be prejudiced. The public road should be able to accommodate the extra traffic generated by the proposal and if not, it should be satisfactorily upgraded with adequate arrangements for parking, servicing and turning within the site.

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

- Written Representations** **Oral Hearing**

SECTION 2. Representation

What is your view on the Draft Plan Strategy?

Sound

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

- (xxxvii) Relevant Paragraph**
- (xxxviii) Relevant Policy**
- (xxxix) Proposals Map**
- (xl) Other**

Details

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

The draft policy on petrol filling stations and road side facilities does not take proper account of policy requirements for access, movement and parking or provide sufficient policy coverage on road safety. There is also a concern that clear justification/demonstration of need for such facilities inside settlement limits is not required, as proposed under the draft policy for such facilities outside of settlement limits.

Modifications

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

It is considered necessary for the following areas to be covered within the policy area to ensure access to the public road, road safety and adequate facilities are provided to support such development proposals.

The provision of roadside service facilities on the trunk roads network in the open countryside may be considered acceptable where there is a clear indication of need. It is important to secure the adequate provision of roadside services for long distance travellers using the trunk roads network. As part of the continual upgrading of the network, many settlements have been bypassed. It is not always appropriate for travellers to divert off major routes for services. On the other hand there has been pressure for new development, particularly petrol filling stations in the open countryside. This pressure if left unchecked could result in a proliferation of development resulting in a loss of environmental quality along major routes.

Proposals for roadside service facilities may be considered along the trunk roads network. New facilities will not be permitted unless:

- There is a clear indication of need. In normal circumstances it is considered reasonable to expect a driver to travel at least 12 miles along the main traffic route

network before reaching a petrol filling station or service centre (on either side of single carriageway roads). Proposals for new facilities within 12 miles of existing services will therefore not normally be acceptable;

- The access arrangements are satisfactory. Proposals which would lead to traffic hazards will not be permitted. Stations should be designed for one-way working and should be accessible without dangerous right-turning movements across traffic flows. The pairing of stations/ services on either side of the road is always preferable - on both single and dual carriageways. In general, sites adjacent to the main routes but which have access to a minor route may be preferable to sites with direct access, provided the facility is clearly indicated to on-coming traffic. Where direct access is permitted the applicant will normally be required to provide any necessary improvements to the road layout, such as deceleration lanes; and
- The proposal is satisfactory in terms of location, siting and design with adequate screening by landscaping will normally being required.

In normal circumstances, proposals for petrol filling stations, and roadside services are unlikely to be acceptable in Green Belts, Areas of Outstanding Natural Beauty and Countryside Policy Areas.

Along the trunk road network the Department considers there is a need not only for fuel provision but also for a wider range of services including toilet and catering services and picnic sites together with adequate parking. Favourable consideration will be given to applications for such service centres which meet the criteria outlined above. Where a route is already adequately served by existing petrol filling stations the creation of entirely new service centres will not normally be acceptable but proposals for the extension of facilities at existing filling stations may be considered. Such facilities will not be acceptable adjacent to every filling station - again a spacing of 12 miles between services is considered appropriate. Proposals for a grouping of services, by nature of their scale, can have a significantly greater impact on the rural environment. Proposals will therefore be carefully considered to ensure that they can be satisfactorily integrated into the local landscape. Design should be of a high standard and landscaping used to screen the development, particularly any large areas of car parking.

It is considered that on routes not forming part of the trunk roads network there will normally be no necessity to locate petrol filling stations or roadside services in the open countryside. Such facilities will normally be directed to existing settlements unless local circumstances indicate that such a policy would lead to undue hardship for the residents. The upgrading of existing filling stations will normally be acceptable unless increased trade would create or exacerbate a road traffic hazard. Where a petrol filling station has been abandoned, the policy as set out above will be applied.

Most petrol filling stations now provide a wide range of retail goods in the associated shop. Many now function as the local shop or small supermarket serving the surrounding population. The important role of such retail provision is recognised. Such shops should however clearly remain secondary to the use as a petrol filling station. Proposals for larger units providing general retailing are not considered appropriate. Secondary uses such as vehicle sales or vehicle repairs will normally be unacceptable in countryside locations.

Where a new petrol filling station or roadside service centre is approved in a rural area conditions will normally be imposed to secure adequate parking and landscaping and to restrict the type of goods to be sold. The accumulation of signs will be resisted.

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

Written Representations **Oral Hearing**

In addition to the significant issues relating to “soundness” outlined above, the following comments are offered in relation to Development and Design within the Draft Plan Strategy –

Development and Design – Page 48 – Context and Justification –

- There should be reference to the relevant transport/roads policies as they can have a positive impact on supporting good design and place making. Having read across from these policies will ensure there is consistency of approach.

Development and Design – Page 50 Draft Policy DE02 Design Quality –

- New policy wording should promote more effective integration between land use planning and transport. As well as walking and cycling new policy wording should also support convenient access to public transport. In the last paragraph of the policy The Department would suggest adding “Creating Places – Achieving Quality in Residential Development.” as a reference document it provides much better technical clarity as a design guide for footway/road layouts for developments. It is also used when considering the appropriateness of an internal footway/road layout for adoption by DfI Roads.

Development and Design – Page 52 Draft Policy DE03 –

Sustaining Rural Communities – No consideration is given to the accessibility of locations – this point has been made previously in this submission.

Development and Design – Page 57 Draft Policy DE07 - Advertisements –

- LED signage is not included in this draft policy. Due to the increasing amounts of requests for LED advertising and in the interests of road safety The Department would suggest the following guidance is added to Appendix 1 Page 222 of the Draft Plan Strategy-

“Digital advertising screens should only display static images and should not contain moving images. The rate of change between successive displays should not be instantaneous and should not include the sequencing of images over more than one advert or a message sequence, where a message is spread across more than one screen image.”

“The minimum duration any image shall be displayed shall be determined by the Council.”

“The minimum message display duration should ensure that the majority of approaching drivers do not see more than two messages. The minimum message display duration of each image shall be calculated by dividing the maximum sight distance to the digital advertisement (metres) by the speed limit (metres/second) of the road (30mph = 13.4m/s, 40mph = 17.9m/s, 50mph = 22.4m/s, 60mph = 26.8m/s , 70mph = 31.3m/s.”

“The luminance of the screen should be controlled by light sensors which automatically adjust screen brightness for ambient light levels, in order to avoid glare at night and facilitate legibility during daytime. The proposed advertising screen should generally comply with the Institute of Lighting Professionals’ guidance PLG05, ‘The Brightness of Illuminated Advertisements’. Maximum night time luminance of the digital screen must not exceed the appropriate value from Table 4 of PLG05, which must be considered in conjunction with the environmental zones as defined in Table 3 of PLG 05. Proposed luminance levels and control arrangements are to be agreed by the Department for Infrastructure – Roads.”

“Advertisements shall not resemble traffic signs or provide directional advice.”

“Road Traffic Regulation (NI) Order 1997 makes it an offence to display any sign which resembles a traffic sign on or near a public road.”

“Telephone numbers and website addresses should not be displayed.”

Economy – Page 93 Context and Justification – Industry and Business –

- Support for industry and business proposals in the countryside fails to consider accessibility as part of the decision making process – would recommend that this paragraph is expanded and accessibility is catered for.

Economy – Page 97 Draft Policy IB04 – Industry and Business Development in the Countryside – Would suggest adding additional wording:

- *“the local roads and traffic infrastructure must be assessed and upgraded if necessary”*

Economy – Page 112 Draft Policy TCR05 – Petrol Filling Stations -

Is bullet point on page 112 regarding “it is located along a dual carriageway route which is not currently served by existing petrol filling stations” fair and reasonable?

- Proposals Map No.2 – included on the Legend is “New Transport Scheme” however no scheme is identified on the map.

- A32 Omagh to Enniskillen Improvement Strategy proposals should be added on to the Proposals Map – these can be provided.

Response to Fermanagh and Omagh LDP Plan Strategy

Transport Planning and Modelling Unit welcomes the opportunity to formally respond to the Fermanagh and Omagh Local Development Plan – Plan Strategy. We have taken time to review the Plan Strategy and have chosen to respond, in this ‘free’ format, highlighting the strategic areas of the strategy that we consider currently present a risk to the ‘soundness’ of the plan.

We have presented the key strategic issues identified under what we consider to be the relevant ‘soundness’ test. Where an issue is identified we have endeavoured to highlight what modification the council should consider in order to remedy this. We would also wish to stress our desire to work collaboratively with the Council so as to resolve as many issues as possible in advance of the Independent Examination process.

Soundness Test: P2 Has the Council prepared its Preferred Option Paper and taken into account any representations made

It is not clear to TPMU that the Council has considered the formal feedback submitted by the Department at the POP stage. A number of issues raised by TPMU/ Roads in November 2016 (such as the Spatial Growth Strategy, Development in the Countryside and the importance of Accessibility Analyses) have not been addressed or do not appear to have been fully considered.

In addition, significant TPMU/ Roads effort went into extensive engagement with the LDP team (replying on batches of emerging policy between September 2017 and February 2018, and providing officials with a comprehensive review of their draft ‘Transport and Accessibility’ document and guidance on the departments expectations in regard to this area) – it is disappointing to note that this has largely not been reflected in the Plan Strategy.

It has been, and continues to be the Departments position that the spatial growth strategy (which directs a substantial proportion of housing to the Countryside (where there is generally limited or no public transport) does not apply the principles of integrated land-use and transport. Furthermore the Council appears to have neglected to apply/ make use of the Accessibility Analyses tools made available to them (it is noted that Draft Strategic Policy SPO3 makes reference to the use of Accessibility Analyses, however this only relates to ‘main towns and local towns’). The Accessibility Analyses identifies where public transport services operate currently and therefore where access to essential services may be possible without private car. It is the Department’s view that this approach should be a key element of selecting which areas are identified for growth within the Councils Settlement Strategy. It appears that Plan Strategy attempts to maintain the prevalent settlement pattern of the area – rather than attempt to ‘shape the district’.

Modifications

Council need to demonstrate that the principle of the integration of land use and transport is given appropriate consideration in the identification of their settlement strategy and housing allocations.

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

It is noted that Part One sections 6.29-6.33 of the Spatial Growth Strategy relate to Transport and make reference to the Local Transport Strategy (LTS) being prepared by the Department in close consultation with the Council. TPMU acknowledge the fact that the Plan Strategy has been published

in advance of the LTS and this has clearly presented a difficulty for the Council. However it is the view of TPMU that due to the collaborative way in which the LTS has been developed the Council have had knowledge of the key messages and objectives within the LTS and therefore should have been able to more fully 'have regard' to this.

Paragraph 6.32 lists the Plan Strategy's approach to transportation, which bears some resemblance to the objectives contained in the Local Transport Strategy – however the following point is noted as not being consistent with the LTS:

'Reduce travel times and improve public transport services between our main centres and elsewhere in the region' – the phrase "and elsewhere in the region" is too imprecise and presents the problem. We would suggest that consideration be given to amending this to 'Reduce travel times and improve public transport services between our main centres. This will benefit direct travel between the centres but also residents and businesses in the rural hinterland who will join part way along the route, potentially using Park and Ride or Park & Share'.

The LTS contains an objective to 'enhance accessibility by road and public transport from the centres of Enniskillen and Omagh to Belfast, Londonderry, gateways and hubs'. Improved journey times on Key Transport Corridors is a key PfG outcome for the Department. Although subtle it is important that the commitment as outlined in the LTS is properly reflected in the Plan Strategy – which focuses on linkage between Enniskillen, Omagh and other hubs and gateways (as outlined in the RDS).

The absence of a strategic policy in relation to transport is noted.

Part Two

There appears to be a disconnect between paragraph 6.34 and 6.35 – the implication being that the 'fundamentals' of the RDS and the New Approach are not relevant to Fermanagh and Omagh area due to the 'heavy reliance of motorised transport' in the area. The LTS acknowledges the rural nature of the Council area and the high proportion of car use – however the need to 'turn the curve' to achieve PfG outcomes is also noted and should be reflected in the LDP Plan Strategy.

Paragraph 6.35 refers to an 'overall objective' "to improve physical connectivity and accessibility between and within settlements and their rural hinterland" – this appears to be an additional objective from what is listed in Part One of the Plan Strategy document.

Paragraph 6.36 – "The retention of parking in town centres is also important in the interests of providing accessible and convenient town centres for shoppers and visitors. The effective management of off street parking will be addressed through the Council's Parking Strategy and Action Plan (March 2018)". The LTS identifies a measure in relation to Town Centre Parking Strategies. These strategies are a necessary part of the LDP process and should be consistent with the aspects of car parking as detailed in the SPPS. It is considered that the Fermanagh and Omagh Council Parking Strategy is not sufficient in this regard and does not sufficiently tie in with the LTS. The Department has communicated with the council in this regard previously (June 2017).

Paragraph 6.37 – "Whilst transportation within the district is primarily associated with the road network" – it is unclear what is meant by this. The LTS clearly sets out the transportation context for the Fermanagh and Omagh Council area which is made up of pedestrian networks, cycling networks, bus based public transport networks in addition to the road network.

Paragraph 6.46 – "The provision of suitable car parking facilities and to meet a range of users (e.g. short and long-term visitors) is essential to support the needs of our businesses, residents and

visitors. The loss of car parking may therefore have economic impacts as the effect on the viability or vitality of our town centre or result in circumstances where displaced parking would be detrimental to highway or pedestrian safety” - This paragraph appears to be at odds with the LTS. The effective management of car parking has a key role to play in improving how urban transport networks operate. The location of public car parking and its designation as long or short-stay is an important element of the LTS and should be appropriately reflected in the LDP Plan Strategy. In addition the Department would expect that the LDP would acknowledge that urban car parking strategies will have a direct impact on the potential to provide high quality public realm and contribute to positive place making.

Paragraph 6.53 – “The Regional Transportation Strategy (RTS) will be the main source of identifying and prioritising future major road schemes”. This sentence is incorrect. Road schemes which have been identified for delivery within the plan period for the Fermanagh and Omagh area will be identified in either the Regional Strategic Transport Network Transport Plan (RSTNTP) or the LTS/ LTP.

Modifications

- The LDP Plan Strategy should be consistent with the objectives and measures contained in the LTS.
- Paragraph 6.33 – third sentence, which has been lifted from the Fermanagh and Omagh Local Transport Strategy is out of context and should be prefixed with “The purpose of the LTS is to set out the transport measures that DfI expect to deliver during the LDP period to 2030 in the Fermanagh and Omagh area.
- A strategic policy in relation to transport in the Fermanagh and Omagh area should be developed in conjunction with the Department for Infrastructure and should be added to the LDP Plan Strategy

CE3 There are clear mechanisms for implementation and monitoring

The inclusion of monitoring indicators is welcomed, however comments are offered on the following indicators:

1. Length of new footpaths and cycle paths created – this indicator does not address the purpose for which it is attributed to. Ultimately the Council should consider observed levels of walking and cycling in the geographic area as the ‘measure’ for policy. If council wish to identify whether ‘development has resulted in improved accessibility by non-car modes’ accessibility analyses should be undertaken, using tools such as those previously provided to the Council by the department. In addition to this the pedestrian and cycle GIS database (as provided to Council in the LTS Evidence Base) should be used to measure length and quality of new facilities.

29. Number of new or extended Park and Ride/ Park and Share facilities created – the definition does not recognise the role of Park and Ride/ Park and Share in the mode choice for inter urban travel

30. Length of disused transport routes re-used for transport, recreation, nature conservation or tourism use – it is unclear how this indicator provides a measure of ‘the effectiveness of policy to safeguard disused transport routes’.

Modifications

1. Length of new footpaths and cycle paths created – indicator to be amended to acknowledge the need to also measure behaviour change, or undertake Accessibility Analyses (walking and cycling network overlaid with census data to chart the catchment of infrastructure). Reference could be made to updating the GIS data base (provided to Council in the LTS Evidence Base) to facilitate an assessment of the length and quality of the walk and cycle network.

29. Number of new or extended park and ride/ park and share facilities created – the definition should also acknowledge the role of Park and Ride/ Park and Share in the mode choice for inter urban travel and surveys should be undertaken of their use.

30. Length of disused transport routes re-used for transport, recreation, nature conservation or tourism use – indicator to be amended to ‘length of disused transport routes developed for uses other than ‘transport, recreation, nature conservation or tourism use.

It is suggested that an additional monitoring indicator should be included in relation to car parking. Data in relation to the turnover of town centre short stay and long stay should be reviewed to confirm the accessibility of Enniskillen and Omagh town centres to confirm their continued vitality.

WDPD Comments on the Fermanagh & Omagh Draft Plan Strategy

13th December 2018

The Department for Infrastructure's (the Department) Water & Drainage Policy Division (WDPD) has reviewed the contents of the Fermanagh & Omagh Draft Plan Strategy and has a number of comments to make on it. In particular, it is concerned that there may be a risk of the Plan being unsound when assessed against the soundness tests (set out below).

Soundness Test: C3 Did the Council take account of policy and guidance issued by the Department?

Justification: The Department has previously met with relevant Council officials and presented current policy and legislation on Sustainable Drainage Systems (SuDS), development in proximity to reservoirs and Waste Water treatment Works (WwTW) capacity constraints, some of which are lacking in some detail in the Plan.

Soundness Test: C1 Did the Council take account of the Regional Development Strategy (RDS)?

Justification: Table 3.2: The Housing Evaluation Framework within the RDS states that a Resource Test must be carried out to identify physical infrastructure such as water, waste and sewerage, including spare capacity as part of the Council's assessment of the potential location for new housing.

WDPD comments on the Plan are as follows:

Flood Risk Management – Context and Justification (Page 151)

Paragraph 6.2 - It is encouraging that the Plan acknowledges the risk of flooding from controlled reservoirs and the potential for devastating consequences in the event of a breach or over topping.

This paragraph also states 'the aim of the LDP is to prevent future development that may be at risk from flooding or that may increase the risk of flooding elsewhere'. However, it would be important to know what the council is doing to reduce the current levels of flooding rather than just preventing any future risk of flooding.

FLD03 – Sustainable Drainage Systems (SuDS) (Page 155)

Policy States: *‘Development proposals for major applications and/or for development on land which is identified as being at risk to surface water flooding must include proposals for SuDS’.*

Paragraph 6.13 (Page 155) – WDPD welcomes the inclusion of maximising attenuation of stormwater as close as possible to source.

The Water and Sewerage Services Act (Northern Ireland) 2016¹ gives NI Water the power to refuse a connection to the public sewer network if other alternatives have not been considered. If a developer wishes to obtain a connection to the public sewer network, he/she must also engage with NI Water² having considered the use of SuDS.

Article 161 of the Water and Sewerage Services (Northern Ireland) Order 2006 states that developers are also required to enter into an agreement to have their infrastructure (including hard SuDS like oversized pipes and attenuation tanks) adopted by NI Water if it conforms to its adoption standards. NI Water offers a Pre Development Enquiry³ service where developers can discuss the requirements of the development, including the inclusion of SuDS, with the company before submitting a formal application. SuDS, therefore, should be considered for all and not just for major developments.

It is unclear what the definition is for a ‘major development’ within the Plan. Is there a size of development which the Council considers to be ‘major’ other than those which it has previously defined as ‘regionally significant’ under Section 26 of the Planning (NI) Act 2011 (the Act)?

WDPD suggests that in the SuDS policy the word “must” be replaced with “where appropriate” as there may be some circumstances where, having assessed and considered all the drainage options, including SuDS, it may not be possible to proceed with a SuDS option within the drainage layout.

Paragraph 6.14 (Page 156) – SuDS systems can also incorporate traditional piped drainage, for instance by using oversized pipes with flow control.

Paragraph 6.15 (Page 156) – This paragraph lists a number of types of SuDS. It, however, should also include oversized pipes with flow control and (underground) attenuation tanks which are both SuDS and which are adoptable by NI Water.

Paragraph 6.15 (Page 156) – WDPD agrees and suggests that the Council maximise the potential source control of SuDS by encouraging SuDS which would be contained within individual households, including green roofs, soakaways, water butts and

¹ <https://www.legislation.gov.uk/nia/2016/7/contents>

² <https://www.niwater.com/services-for-developers/>

³ https://www.niwater.com/sitefiles/resources/developers%20services/dsgeneral/pde_guidance.pdf

permeable paving. These systems can help in reducing peak water flows of stormwater and can be maintained by the householder.

Paragraph 6.16 (Page 156)– The policy states that ‘the Council must be satisfied that suitable arrangements are in place with regard to long-term management and maintenance of infrastructure on which mitigation depends’. It is assumed that this refers to SuDS. Does this mean that if a maintenance agreement is not included, the Council will not approve the application? How will the Council confirm the correct maintenance plan is in place for infrastructure SuDS? Will it require this as a planning condition of a site?

FDL06 - Development in Proximity to Reservoirs (Page 158)

Given that the policy applies only to controlled reservoirs, WDPD suggests that the title is revised to read ‘Draft Policy FLD06 – Development in Proximity to Controlled Reservoirs’.

The 4th bullet point of the draft policy makes reference to a ‘FRA’ and the ‘Policy Clarification’ advises that ‘It is therefore necessary that proposals within the inundation area are accompanied by a FRA’. However, substantive reference to the Flood Risk Assessment (FRA) is missing from the draft policy. The FRA is, for good reason, an essential component of the Department’s SPPS and FLD5. Therefore, it is strongly suggested that Council’s policy also includes this requirement.

It is suggested that Council clarifies who is a ‘suitably qualified engineer’. The Department has clarified in para 2.3 of its Technical Advice Note of August 2018 that a ‘suitably qualified engineer’ is an All Reservoirs Panel Engineer. It will issue a revised version of the Technical Advice Note which advises that a ‘suitably qualified engineer’ is a member of one of the following Panels:

- An All Reservoirs Panel;
- Service Reservoirs Panel; or
- Non-Impounding Reservoirs Panel.

WM02 – Waste Water Treatment Works (Page 175)

The Department and NI Water have also previously met with the Council and discussed the need to consider the capacity restrictions of Waste Water Treatment Works (WwTWs) and associated networks when evaluating an increase in housing stock.

Paragraph 6.70 – This policy appears to be focused on planning arrangements for upgrading or extending WwTWs and not on capacity issues at WwTWs. NI Water has previously supplied the Council with data regarding the capacity restrictions on many WwTWs in the Council area. This issue has also been raised with the Council during its meeting on 11th May 2018 with the Department and NI Water.

There are no references within Chapter 6 (Infrastructure) of the Plan to any capacity constraints in the sewer network or WwTWs within the Council area. The only mention

of this is in 4.30 (page 24) which states 'It has been identified that some settlements have no remaining capacity within the waste water treatment infrastructure'.

The Plan does, however, show the projected increase in housing in a number of towns within the Spatial Strategy Map. None of the towns identified to grow have capacity constraints on their WWTWs. However, Council should confirm this with NI Water before proceeding any further with the Plan.

The Spatial Strategy Map, however, does not identify other smaller villages or hamlets which are predicted to grow and which may have capacity constraints. This is a critical issue which must be considered as part of the Plan as wastewater capacity will be a key consideration when zoning land for development. This issue was highlighted on Page 17, Sections 6.19 – 6.20 and Section 7.4 of Fermanagh & Omagh's Public Utilities paper published in 2015.

WM03 – Development in the Vicinity of Waste Management Facilities (Page 175)

Unsure what the definition of 'in the vicinity of' is? Is there a definition of this anywhere?

Annex 1 – Additional Dfl Planning Comments

Further to the comments in the strategic response, the Department would like to detail some additional points for consideration regarding the operational policies contained within the draft Plan Strategy PART TWO.

2.0 Development and Design

Development and Design

Draft Policy DE01 – General Amenity Requirements

The intent of this general policy is acknowledged, however additional criteria may have made this more comprehensive. For example visual amenity and road safety considerations would contribute to the character and quality of places. Clarification would be welcome on the use of 'amenities' within the policy.

Draft Policy DE02 – Design

No reference to the submission of a design and access statement where applicable.

Draft Policy DE03 – Sustaining Rural Communities

This policy sets out the range of types of residential and non-residential development the Council will support in the countryside which sustain rural communities and improve the environment.

The Department notes that all proposals for development in the countryside must comply with draft plan strategy policies DE04 – Integration and Design; DE05 – Rural Character; and, DE06 – The Setting of Settlements which take account of the SPPS and largely reflect existing operational policy.

However the draft plan strategy introduces a number of new policies here for residential development which are not provided for in the SPPS such as HOU11 – Redevelopment of a former site for a dwelling. Further comment is provided later in this response in relation to these policies.

These in combination with the existing opportunities may impact on the overall objectives of the draft plan strategy as discussed in the strategic response.

Draft Policy DE07 – Advertisements

Draft Policy DE07 states that the Council will give consent for the display of an advertisement where *it does not detract from the character and amenity of the area; and it does not prejudice public safety*. The policy wording for draft DE07 is currently silent on road safety considerations.

Whilst this draft policy takes account of the regional strategic objectives, policy and implementation of the SPPS (6.56 and 6.57), the SPPS specifically references public safety *'including Road Safety'*.

Draft Policy DE08 – Advertisements and the Historic Environment

This draft policy should take account of paragraph 6.58 of the SPPS, and it does so in that it brings forward appropriate policy for the control of advertisements which affect *listed buildings and conservation areas*. However, it is silent on Areas of Townscape Character.

3.0 People and Places

Housing in Settlements

Draft Policy HOU08 - Annex Living

The SPPS makes no specific provision for Annex accommodation. This form of development should be modest in scale, attached to the main dwelling and internally accessible to it. The conversion of an outbuilding could be considered where an extension is not practical, however it should not be capable of occupation as a self-contained unit.

The Department is concerned that this policy is ambiguous and could potentially lead to a proliferation of 'self-contained units'. Ancillary Annexes should be limited to the provision of additional accommodation for elderly family members or other personal and domestic circumstances.

Housing in the Countryside

Draft Policy HOU8 Annex Living

As above the Department is concerned that the application of this policy may result in a proliferation of self contained units in the countryside.

HOU11 – Redevelopment of a former site for dwelling

The SPPS does not make provision for this type of development and the policy remains untested in practice. Furthermore it is unclear whether evidence is available in relation to the need for this policy or the potential applications that could come forward under this draft policy.

Draft Policy HOU12 – Dwellings on a Farm Business

The Department notes that the definition of 'sold off' excludes the subdivision of a business amongst family members or the gifting of a site to a family member.

Draft Policy HOU14 – Rounding Off and Infilling

The Department has concerns with this draft policy which although it appears to take account of the SPPS it has significantly 'looser' policy tests e.g. 'the existing group appears as a focal point at a junction of roads...' (as opposed to being associated with a focal point – not defined by the SPPS) '...or on the landscape when viewed from a public vantage point' (which is subjective).

Furthermore an existing group is defined as three buildings which could create opportunities for additional dwellings in the countryside, particularly as a building is defined in the draft policy as permanent structure with a roof and walls. This could potentially include domestic garages, ancillary buildings and sheds. This policy could have a significant impact on the number of new dwellings in the countryside and therefore the overall housing figures for the district.

Draft Policy HOU17 – Affordable Housing in the Countryside.

The Department RPP notes that 'affordable housing' will be permitted where the application is made by a registered Housing Association or a 'Rural Development/Community Association'. This provides additional opportunities than those already provided within the SPPS and it is unclear which groups could avail of this development opportunity under the draft policy.

It is also noted that the sequential test for site selection allows for groups of up to six affordable houses within a 'Rural Community Area' although draft policy RCA01 makes no reference to affordable housing in an RCA.

Community Facilities

Draft Policy CF01 – Community Facilities

The draft policy states that new or enhanced community facilities will be permitted (inter alia) where they are located within a settlement or '**within the area they serve**'. The latter reference is ambiguous, and open to a range of localities. Paragraph 3.65 further substantiates this by stipulating 'local need for such facilities may arise within the local neighbourhood, villages and the rural area'. The Department would have concerns that this could give opportunities within the countryside which would not align with strategic policy.

The range of community facilities listed in the context and justification includes crèches and play facilities, residential care homes and nursing homes and other types of development which would not normally be acceptable in the countryside or rural area.

It is also noted that the policy allows for the change of use or redevelopment of an existing community facility for a '**non-community use**' where it can be demonstrated that the building is no longer needed and is not economically viable. The policy does

not define 'non-community use' which could potentially open up opportunities for unacceptable types of use or development in the countryside as well as within settlement limits.

Open Space, Sport and Recreation

The Council's open space strategy is welcomed. The objectives are consistent with those contained in paragraph 6.201 of the SPPS.

Draft Policy OSR01 – Protection of Open Space

The draft policy introduces further explanation on when the loss of open space is considered appropriate. The Policy would benefit from further clarification on how the second bullet point of criteria (b) will be applied. Policy clarification appears only to relate to the first bullet point of criteria (b). This would help to support how the exceptions are justified.

Draft Policy OSR02 – Intensive Sports Facilities

The SPPS (6.207) provides for intensive sports facilities to be located within settlements with the **exception of a sports stadium**. The proposed policy deviates from strategic policy direction in that it allows for the provision of intensive sports facilities outside settlement limits, albeit in restricted circumstances. Furthermore in relation to a large-scale intensive sports facilities, no clear criteria are stated other than demonstration of strategic importance. It would be expected that the large-scale facilities would have a higher test to achieve.

Draft Policy OSR03 – Outdoor Recreation in the Countryside

The introduction of first criteria is welcomed, however it is noted that the policy does not align with SPPS (6.212) in that outdoor recreation in the countryside should have regard to visual and residential amenity; public safety, including road safety; and any impact on nature conservation, landscape character, archaeology or built heritage.

The Department welcomes the Council's Draft Policies OSR04, OSR05 and OSR06. The Council should ensure that appropriate arrangements are in place to ensure the maintenance of rivers and would recommend liaising with DfI Rivers to address this issue.

It is also noted that Draft Policy HOU6 – Public Open Space in New Residential Developments is consistent with the existing operational policy and the SPPS accordingly.

Rural Community Areas

Draft Policy RCA01 – Rural Community Areas

The Department understands that Dispersed Rural Communities (DRCs) have not been taken forward from the POP and that Rural Community Areas (RCAs) are an alternative provision. It would have been helpful to clarify where the RCAs are identified, or if they will not be displayed until the LPP.

The SPPS makes provision for appropriate sustainable economic and community development in the countryside.

The Department would welcome clarification on what is constituted by 'an existing facility' within the draft policy.

This policy clarification lists a number of examples of development that would be acceptable but also states that it is not limited to these examples. Although it identifies that retailing, general industry, storage and distribution will not be permitted, the need/justification for this policy should be supported by clear evidence.

Furthermore, this policy has a link with draft policies for Affordable Housing in the Countryside (HOU17), Community Facilities (CF01) and Farm Diversification (IB05) and Industry and Business Development in the Countryside (IB04) and should be referenced accordingly. It is noted that the sequential test for site selection in draft Policy HOU17 'Affordable Housing in the Countryside' allows for sites within a Rural Community Area although draft policy RCA01 makes no reference to provision for affordable housing in an RCA.

Reference to 'rural start up projects' within the glossary would have been welcome.

4.0 *Economy*

Industry and Business

Draft Policy IB04 – Industry and Business Development in the Countryside

In relation to criterion (d) re-use of an existing building for a rural start-up project, clarification would be welcomed if this is intended for either existing industrial or business use buildings to be potentially re-used, or if it is a locally important building (as per the SPPS) or further still **any existing building in the countryside**, which would raise concerns. It would also be useful to have a definition of a 'rural start-up project'. As highlighted above there is a policy link with RCA01 Rural Community Areas.

Draft Policy IB06 – Agricultural and Forestry Development

In relation to new agricultural buildings the siting of such buildings away from the main group of farm buildings is more relaxed than strategic policy direction and should be supported by robust evidence base where deviation occurs.

Town Centre and Retailing

Draft Policy TCR02 – Primary Retail Frontage

The unacceptable loss referred to in Criterion (b) is subjective. Further detail on the application of this would be helpful.

Criterion (e) states that proposals will only be permitted where they retain an active shop window display i.e. shop window display for goods not dominated by large generic stickers/poster displays. The Department notes that no indicators for monitoring shop window displays have been included in the Section 7 Monitoring and Review. Accordingly, this may be better placed in guidance as it is difficult to see how this element of policy would be enforced.

Draft Policy TCR04 and Draft Policy TCR05

These policies would benefit from the inclusion of a further bullet point stating that proposals would be permitted provided there is no adverse impact on town centres within the catchment.

A number of the policies relating to Town Centre and Retail set out thresholds for development. However no detail is provided on how the Council proposes to assess applications just below or below the retail thresholds outlined.

Tourism

Draft Policy TOU01 – Protection of Tourism Assets and Tourism Development

Part B Tourism Development contains provision for the loss of '*any tourism amenity, or any development intrinsically linked to tourism*'. In addition, the policy states that planning permission will not be granted for the "*change of use of tourist accommodation to a dwelling unless it can be demonstrated that the building is no longer needed or no longer viable for a tourism use*". Paragraph 4.57 of the policy clarification provides further detail on this potential scenario of changing use, stating that, "*...evidence must be provided to confirm that the property has been marketed for a meaningful period and that there is no realistic interest in its retention for the current use or for a tourism use.*"

This provision could impact on the number and distribution of dwellings in the countryside.

Draft Policy TOU02 – Tourism Development

The first paragraph of this policy relating to the scale, design and context is consistent with the SPPS (6.265).

The second paragraph of the policy states that tourism facilities and self-catering accommodation in the countryside will be supported in circumstances where *'it is a major tourism development which will be of exceptional benefit to the tourism industry...'* In contrast, the SPPS (6.260) states that *'...acceptable tourist development in the countryside may include appropriate self-catering accommodation, particularly in areas where tourist amenities have become established or likely to be provided as a result of tourism initiatives....'*

Draft Policy TOU02 however suggests that **'tourism facilities' and 'self-catering accommodation' in the countryside** are in themselves considered to be a **major tourism development** and of exceptional benefit to the tourism industry as opposed to being located in an area which has become established or likely to be established as a result of tourism initiatives.

Criterion (c) of the draft policy seeks demonstration that a major tourism development is to be run in association with the tourist amenity or asset. The safeguarding of assets from unnecessary, inappropriate or excessive development is a vital element in maintaining a healthy tourism industry. To this end, Council is reminded that planning permission should not be granted for development that would, in itself or in combination with existing and approved development in the locality, have an adverse impact on a tourism asset, such as to significantly compromise its tourism value.

Minerals Development

It is acknowledged the draft Plan Strategy approach to Minerals broadly aligns with the SPPS as contained in Draft Policies MIN01 – MIN04 which make provision for minerals development proposals, and address matters including areas of constraint; restoration and aftercare; minerals safeguarding; and, unconventional hydrocarbon extraction.

The SPPS states that councils 'may' also identify areas suitable for mineral development although there is no specific requirement to do so. The Council may wish to consider this aspect within the Local Policies Plan.

Draft Policy MIN01 – Minerals Development

Whilst this draft policy broadly aligns with SPPS, it is noted that under this policy commercial peat extraction will not be permitted which is a stricter approach than strategic policy. It is stated the Council has proposed this ban on commercial peat extraction for environmental concerns and therefore where a deviation from regional policy occurs, robust evidence should support it.

Areas of Constraint on Minerals Development (ACMDs) have been identified on the draft plan proposals maps and it is noted that a number of these are also Areas of Significant Archaeological Interest. Within the context of Areas of Constraint on Mineral Development (ACMDs) the additional exceptions are acknowledged. It is noted that the 'short term duration' criteria is defined as 15 years. Although this is explained further in 4.80 and this timeframe includes construction, operation, decommissioning and restoration, it is unclear the rationale provided for this specific timeframe.

It would have been useful to have more reference to public safety, and in relation to residential amenity there is no reference to separation distances.

Draft Policy MIN02 – Restoration and Aftercare

This draft policy introduces the requirement of a bond to ensure the full restoration and reinstatement of the site should the developer fail to implement the previously agreed restoration plan. Further explanation on the application of this policy requirement would be helpful.

5.0 Environment

Historic Environment

There are instances where the policy is contained in the policy clarification rather than the policy box. Some examples of this relate to Built Heritage, Natural Heritage and Landscape where 'requirements' are contained in the supporting policy clarification.

Draft Policy HE01 – Historic Environment Overarching

Clarification is required as to the purpose of this policy over and above the remaining Historic Environment policies (HE02 to HE07) as the various aspects of the historic environment warrant different policy approaches, as set out in the SPPS.

Draft Policy HE02 – Archaeology

Further clarification is required as there appears to be text missing within the policy box.

Paragraph 5.10 appears to be permissive to development and this is in contrast to the stated policy within the policy box which refers to 'exceptional circumstances'.

The use of Statements of Significance in the Countryside Assessment will assist with policy application. However, there is no cross reference or glossary definition contained within the Draft Plan Strategy to signpost this information.

Draft Policy HE03 – Listed Buildings and their Settings

Listed buildings and their settings are considered together in the SPPS, whereas draft policy HE03 refers to 'listed building or its setting' which changes the application of the policy.

Bullet point 2 under part b) is in addition to SPPS policy and may alter the intent of strategic policy. The Council would require evidence to justify this deviation.

The last line of paragraph 5.16 requires clarification.

Draft Policy HE04 – Conservation Areas

The SPPS (paragraph 6.18) states that there is a general presumption against the demolition of unlisted buildings within Conservation Areas other than in 'exceptional circumstances', and this is not clearly stated within the draft policy. The exceptional circumstances are considered to be 'material considerations grounded in the public interest'.

Draft Policy HE05 – Areas of Townscape Character (ATCs) and Areas of Village Character (AVCs)

In relation to the reference to tree protection, there is no legislative requirement for the level of tree protection as set out in this policy. If this is intended to be an overarching protection policy for trees, the Council should consider if this is realistic and, if so, how it relates to the relevant legislation.

Draft Policy HE06 – Historic Parks, Gardens and Demesnes

The second bullet point of the draft policy which refers to the impact on 'views to, from and within, the Historic Park, Garden or Demesne' and has a different emphasis from the SPPS and may weaken the strategic policy intent.

Draft Policy HE08 – Enabling Development

The list of criteria in paragraph 5.28 provides aspects of the existing operational policy, but not all of it, and therefore the full list of criteria should be considered for inclusion within the policy box.

Draft Policy HE09 – Change of Use, Conversion or Re-use of an Unlisted Locally Important Building or Vernacular building

The draft policy, when compared against SPPS policy has removed some wording such as 'sympathetic' conversion and 'suitable' locally important building of special character or interest. This may weaken the intent of the SPPS policy. The Council should be able to justify the change in emphasis through robust evidence and also demonstrate how this policy is sustainable in terms of housing growth.

Natural Environment

Draft Policy NE01 – Nature Conservation

International and national designations and protected species and habitats are protected by EU Directives and legislation and this although this is stated in paragraph 5.38 it is not referred to in the policy itself or within the introductory context. Furthermore the precautionary principle outlined in the SPPS (6.174) is not reflected.

The reference to policy criterion (a) (iii) meeting 'a social, environmental or economic benefit' may lessen the level of protection which should be afforded to the nature conservation designations.

Paragraph 5.39 refers to the need for appropriate assessment, and also mentions scientific doubt, and both these aspects should be more prominent in the draft policy.

Draft Policy NE02 – Protected Species and their Habitats

The draft policy may weaken the intent of SPPS policy and does not reflect its stronger position. The draft policy also needs to be clearer in terms of European protected species.

Draft Policy NE03 – Biodiversity

In order to better reflect SPPS policy (6.193) the Council should consider developing the current draft policy wording to include 'an unacceptable impact on or damage to habitats, species...'

Landscape

Draft Policy L01 – Development within the Sperrin Area of Outstanding Natural Beauty

It is not clear how this draft policy offers greater protection to this exceptional landscape over and above the general countryside policies. There is no reference to Landscape Character Assessments and any other relevant guidance including AONB Management Plans and Local Design Guides that could be used to assist/guide decision making.

It is not clear what is intended by paragraph 5.53 in reference to 'these will not be accepted as precedent or directly comparable unless exceptionally all circumstances are the same'.

The Council should also be able to demonstrate that policy relating to this cross boundary designation does not conflict with the DPDs of neighbouring councils as required by soundness test CE1.

Draft Policy L02 – Special Countryside Areas (SCAs)

The inclusion of the Proposal Maps which illustrate proposed SCAs is helpful and in line with SPPS policy and the Department's Practice Notes.

These exceptional landscapes should be afforded greater protection, and the SPPS states that development should only be permitted in exceptional circumstances. It is not clear what the exceptional criteria are for the SCAs over and above the general countryside policies DE04, DE05 and DE06.

The Council should be able to demonstrate how this policy is sustainable in terms of housing growth (bullet point 2) when considered in combination with the other countryside policies within the draft plan.

Draft Policy L03 – Areas of High Scenic Value (AoHSV)

The inclusion of the Proposal Maps which illustrate proposed AoHSVs is helpful and in line with SPPS policy.

The SPPS states that local policies may be brought forward to maintain the landscape quality and character of AoHSVs. It is not clear what the exceptional criteria are over and above the general countryside policies DE04, DE05 and DE06. Council should be able to demonstrate how this policy is sustainable in terms of housing growth.

The policy clarification refers to the requirement for a Landscape and Visual Impact Assessment and this requirement could form part of the policy itself. This assessment is required for large scale development only, however the Department would ask that consideration is given as to whether large scale development is considered appropriate in such a sensitive landscape.

6.0 Infrastructure

There are instances where the policy is contained in the policy clarification rather than the policy box. An example of this relates to Flooding where 'requirements' are contained in the supporting policy clarification.

Flood Risk Management

Draft Policy FLD01 – Development in Floodplains

Where a proposal falls within a listed exception it must demonstrate requirements (1) (ii) and (iii) of the policy. However, this is not clearly set out within the policy.

The Department notes that no specific criteria for minor development has been identified with the policy itself. Paragraph 6.8 sets out what is considered to be minor development.

Draft Policy FLD02 – Development affected by Surface Water Flooding outside Floodplains

In relation to the requirement for a drainage assessment, regarding a change of use, the SPSS states 'a change of use involving new buildings and/or hard surfacing exceeding 1000sqm in area.' The policy clarification does not have the same emphasis.

It should be made clear that the onus is on the developer to assess the flood risk and drainage impact, and to mitigate the risk and any adverse impacts.

Draft Policy FLD06 – Development in Proximity to Reservoirs

The need for a Flood Risk Assessment should be clearly set out in the draft policy.

Renewable Energy

Draft Policy RE01 – Renewable and Low Carbon Energy Generation

The Department acknowledges the level of detail provided in the background reports in relation to the Wind Energy Capacity Study and the Wind Energy Strategy. It is noted the reference to the Wind Energy Strategy in draft policy RE01 and policy clarification. Paragraph 6.28 states it is a **principal** material consideration and is included as appendix 7 at the back of the Plan Strategy document. Appendix 7 details the Strategy as **strategic guidance**. Clarification on the hierarchy of consideration would be helpful.

Para 6.33 states that there is no guidance available for appropriate location and design of solar farms, and then it signposts to guidance outside of this jurisdiction. The

Council may wish to consider the use of supplementary planning guidance for this area.

Transportation

Draft Policy TR02 – Car Parks and Service Provision

The policy states that proposals for new or extended car parks within the town centre will only be permitted where they do not impact on the vitality or viability of the town centre, although it is unclear how the impact will be determined

Emphasis is placed upon the importance of retaining car parking in town centres (paragraph 6.36 & 6.46). The Council is reminded that the SPPS states that LDPs should consider a range of initiatives such as designating areas of parking restraint, reducing the supply of long term parking spaces, pricing policy, land use measures and innovative work practices in influencing modal choice between private car and public transport (paragraph 6.301).

Accessibility for all is not addressed and the draft plan lacks reference to meeting the needs of people with disabilities and others whose mobility is impaired.

Draft Policy TR04 – Protected Routes

Draft Policy TR04 does not fully take account of the provisions of the SPPS (6.301) in relation to criteria c (i) and (c) (ii).

Waste Management

Draft Policy WM01 – Waste Management Facilities

While the criteria and policy clarification broadly takes account of the SPPS, the criteria for a site adjacent to existing waste management facilities would benefit from reference to compatibility of adjacent sites, as highlighted by the SPPS (paragraph 6.317).

The SPPS (paragraph 6.322) acknowledges that there are a range of impacts associated with such facilities. The draft plan policy should address these impacts

While it is noted there is a general policy (DE01 General Amenity) these wider impacts are not fully covered.

Draft Policy WM02 – Waste Water Treatment Works

In light of this policy, engagement with all relevant Departments is encouraged, as per strategic policy SPPS (paragraph 6.316).

Draft Policy WM04 – Facilities for Recycling of Construction, Demolition and Extraction Waste

The introduction of this policy is a welcomed approach the Council's consideration of the arising waste from this source.