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20 December 2018

Dear Sir/Madam

**RE: HED comments on –
Sustainability Appraisal and Evidence Studies for Draft Local Development Plan
Strategy for Fermanagh and Omagh District Council.**

Historic Environment Division (HED) have concerns around the robustness of the Sustainability Appraisal (SA) for the Draft Plan Strategy, and particularly in relation to assessing effects on the Historic Environment. We consider that the SA is not robust enough as per Development Plan Practice Note 6 and that the policies direction for the historic environment is unsound. The SA does not provide evidence to support the policies articulated in the strategy in relation to the historic environment, which themselves do not carry forward existing policies as per the Preferred Option Paper (POP), and significantly deviate from strategic policy in the SPPS. We ask that our comments are taken into full account and that the historic environment receive due consideration through amendment to the policies as per our draft Plan Strategy response, and a more substantive assessment in SA. These comments should be considered alongside our response on the draft Plan Strategy. We would request that specific account is taken of pages 8-10 of this response which relate to scoring and mitigation for the historic environment policies.

HED has significant concerns over the content of the Local Development Plan 2030 Draft Plan Strategy. **We believe that the historic environment is not receiving appropriate strategic policy consideration** as set out in RG11 of the RDS and the SPPS toward its protection, conservation and enhancement. Nor do we consider that the document shows due attention

of the Development Plan Practice 7, Section 7.0 Archaeology and Built Heritage and notably item 7.3.

HED maintain an independent role in relation to the Local Development Plan process, and operate a Service Level Agreement with DAERA in relation to SEA, whereby we provide advice and comment in relation to matters of cultural heritage, including architectural and archaeological heritage.

We reserve the right to make representations at Independent Examination where we consider that the historic environment is not receiving appropriate consideration.

The following comments relate to both the Sustainability Appraisal of the LDP draft Plan Strategy and additional evidence documentation supplied through the Fermanagh and Omagh District Council Plan Strategy Web Page;

<https://www.fermanaghomagh.com/services/planning/local-development-plan-draft-plan-strategy/>

SUSTAINABILITY APPRAISAL

APPENDIX 3 - REVIEW OF PLANS, POLICIES, PROGRAMMES AND STRATEGIES

HED consider that this section contains gaps and some inaccuracies in relation to content on those plans, policies and programmes which relate to the historic environment, and how they relate to the plan and sustainability objectives.

A: International Level

Item 9. We welcome the inclusion of the Xi'an Declaration in the up-dated table of plans and programmes and would advise that our own Guidance on Setting and the Historic Environment should have been included in the National and Sub-Regional Policies section (C) and will be a pertinent consideration moving forward to the Local Policies stage at the Northern Ireland level.

<https://www.communities-ni.gov.uk/publications/guidance-setting-and-historicenvironment>

The following evidence bases, as provided by HED previously, should be included:

- UNESCO Convention on the Protection of the Underwater Cultural Heritage (2001)
- Rules annexed to the UNESCO Convention on the Protection of the Underwater Cultural Heritage (2001)
- The Convention concerning the Protection of the World Cultural and Natural Heritage (1972)

B: European Level

Item 34. The Valetta Convention is a revision of the London Convention of 1969, not Granada as articulated in your text. Refer to Article 5 (parts i and ii) of the Convention regarding implications as regards Local Development Plans. We consider that the implication as presently articulated in the paper demonstrates a weak understanding of the evidence base. In summary member states signed up to the convention undertake to ensure integrated conservation of the Archaeological Heritage through ensuring its meaningful consideration in the preparation of LDPs and the creation of planning policies designed to ensure well-balanced strategies for the protection, conservation and enhancement of sites of archaeological interest.

Item 40. The Granada Convention. The year should be 1995. The implication here refers to archaeological heritage rather than architectural -there is some cross over but the implications of the Convention outlined in the table are again weak. These could be focused around Article 10 which in summary articulates that member states who are signed to the Convention should adopt integrated conservation policies to ensure inclusion of the protection of the architectural heritage as an essential town and country planning objective and ensure that this requirement is taken into account at all stages, both in the drawing up of development plans and in the procedures for authorising work.

At the Northern Ireland level the objectives of these conventions are articulated through our Regional Development Strategy and the Strategic Planning Policy Statement.

Editorial error: Items 201 and 211 are out of numbering sequence within this section.

C: National and Sub Regional.

Item 61. Planning Policy Statement 6. Given the articulation in the Preferred Options Paper HED consider that the implication articulated in this table (i.e. That "*retention of the policies would be considered in preparing of LDP policies*") does not marry with the articulation that they would be carried forward with minor adjustment as stated in the POP under item 12.2.)

Item 166. The Historic Monuments and Archaeological Objects (NI) Order 1995. HED advise that DfC Historic Environment Division are the lead organisation here. We also advise that the specific implication deriving from this legislation around scheduled monuments is around the need for Scheduled Monument Consent (SMC- legislatively separate from planning permission) for work which would affect these. This would have to be covered in the amplification text around the policy on scheduled monuments (i.e. that those considering works that would affect a scheduled monument should consult with HED). Applicants would be advised to have SMC in place before planning permission could be granted, as there is no presumption in favour of granting SMC. This is not covered in the policies as drafted in the strategy.

The following evidence bases, as provided by HED previously, should be included:

- Protection of Military Remains Act 1986
- Protection of Wrecks Act 1973
- HED Guidance on Setting and the Historic Environment (published February 2018)
- HED Guidance on Sustainability Appraisal and Strategic Environmental Assessment for the Historic Environment (published July 2018)

As articulated above we believe that our Guidance on Setting would be an appropriate inclusion, particularly at local policies stage. Links to our guidance are set out below

<https://www.communities-ni.gov.uk/sites/default/files/publications/communities/guidance-on-setting-and-the-historic-environment.pdf>

<https://www.communities-ni.gov.uk/sites/default/files/publications/communities/heritage-guidance-on-sustainability-appraisal-and-strategic-environmental-assessment-for-the-historic-environment.pdf>

BASELINE EVIDENCE (AND SCOPING CONTENT)

HED consider that the baseline evidence in relation to the Historic Environment is insufficient and does not demonstrate a clear understanding of the area's character. The evidence gathered from many of our datasets dates back to 2015, and we consider that the scoping report should have been updated in the interim (see Development Plan Guidance Note 4, section 7.2 and section 7.3 (b) (x) and Guidance Note 6 – Soundness P3) in light of further relevant evidence provided by HED in the period after the consultation on POP. This has included Statements of Significance for Candidate ASAI which have been **identified** at Creggandevsky and an area extending the Beaghmore ASAI into the district. This information was forwarded by email in early October 2017. These can be designated through the Local Development Plan, and we note the Proposal maps identified with the Draft Plan Strategy. However, we advise these include those parts of the candidate ASAI inside the district (not a holistic approach to aid assessment of effects).

We have also (March 2017) supplied a list of new Areas of Archaeological Potential (AAP) identified from the Gazetteer of Nucleated Historic Urban Settlements. As we have previously articulated, HED point out, as per SPPS 6.29, that Areas of Archaeological Potential are **identified** in Local Development Plans for informative purposes, in the same way as sites on the Register of Historic Parks Gardens, and Demesnes. They form part of a suite of records on the historic environment compiled and maintained by HED and while used to help inform the application of planning policy they are not designated through the plan process.

The discussion in the SA does not reflect the additional evidence we have supplied, and some of the implications of it, for example that Beaghmore and Creggandevosky have transboundary implications with regard to the Mid Ulster Council Area – in these cases the extent of the ASAI zone in that authority area should have been taken into account as well, being part of the heritage asset and should have been part of assessment of effects. In relation to the historic environment evidence HED therefore disagree with the statement in 2.24 that the baseline provides a robust baseline for the plan.

APPENDIX 2 – Key Characteristics and Baseline Information

7. Cultural Heritage and Landscape.

HED consider that this section is significantly out of date, particularly in light of the evidence we have provided since preferred options stage. We point out, as per previous feedback, that Historic Environment Division has not been part of NIEA since 2015. We note that DOE is also referred to.

While figures are supplied in relation to numbers of different categories of heritage assets, there remains little analysis of what the characteristics of the district are in terms of its historic environment. There would be particular types of site for example, that are quite distinctive to different parts of the district.

We would also point out that several of the figures are out of date, for example the number of identified Areas of Archaeological Potential is now 50 as per our excel spreadsheet sent to the authority on 28th March 2017, having increased following a programme of dedicated research on historic urban settlements across Northern Ireland. As per comments above those recognised in previous plans were not designated through the previous plan but **identified** in it.

We can see the two existing ASAI (Topped Mountain and Devenish) are mentioned in the text, but not by name and in no reference to the policy provisions that exist for these. The candidate ASAI information we have supplied, which is vital toward informing policies around those areas at both plan strategy and local policies stage are not referenced.

In summary we consider the appraisal of the historic environment characteristics appear to be too narrow and to be out of date. In addition, we advise that the historic environment includes the evidence of human interaction with the environment in your district, and that assessment of its characteristics should recognise its intertwining with the natural environment and landscape.

Table of Indicators (pages 93/95/96)

We advise that the table of indicators and trends contains out of date information, which does not demonstrate that the data is being periodically reviewed for the purposes of the Plan Strategy. (DP Practice Note 6, P3)

We advise that most of the heritage asset indicator identified categories are prone to increase as new information has come to light. With regard to Industrial Heritage (Page 96) we advise that the primary source for identifying this is the Industrial Heritage Record – there is no need to refer to the Sites and Monuments Record in relation to it - we have concerns that this reflects a confused approach and that the figure given in the table is inaccurate when read against Section 7 in the Key Characteristics of the District Section.

The table does not consider the candidate ASAI, which should be included here for clear cross linkage with the plan strategy, and map proposals. The number of AAP has increased but this is not reflected in the table.

SCORING AND MITIGATION MEASURES

APPENDIX 4 – DISCUSSION TABLES AND MATRICES OF ASSESSING POLICIES AGAINST THE SA OBJECTIVES

HED would question whether historic environment expertise was engaged in carrying out the assessment. We disagree with some of the scoring afforded within the Sustainability Appraisal. In order to make it more robust in relation to assessing and scoring potential effects on the historic environment we advise that review will be necessary. We would have concerns with regard to how effects on the historic environment have been assessed, in primarily a neutral and positive light and that there is a lack of articulation of around potential forms of mitigation of any negative effects on the Historic Environment such as policy application, designation as appropriate or the use of key site requirements.

As an example, generally new development has potential for a destructive impact on any surviving below ground archaeological evidence, including where this is previously unidentified, and that mitigation should be considered in this respect.

HED consider that reference to the potential negative and uncertain impacts should be considered in scoring and mitigation in instances where policies are designed toward housing and economic development. In the case of the drafted policies for the historic environment we are of the view that the direction taken will lead to significant negative effects for the historic environment and a failure to meet the objective.

Table 03 - SP03 STRATEGIC ALLOCATION AND MANAGEMENT OF HOUSING SUPPLY.

HED would have concerns that no negative outcomes are envisaged or articulated with regard to the allocation of almost a quarter of the housing supply to the countryside. While we welcome the positive approach of an emphasis toward brownfield land we would envisage that environmental effects of the approach would include effects on landscape and on the historic environment, including historic landscape character. We would advise that scoring should be uncertain or perhaps positive and negative, rather than neutral. We consider that mitigation of negative effects would therefore be appropriate.

Table 04 - SP04 STRATEGIC ALLOCATION OF LAND FOR INDUSTRY AND BUSINESS

The colour coding afforded to the scoring here is for neutral while the symbol in the box suggests a minimal negative. HED would that the scoring should be uncertain as the effects on the historic environment, including previously unidentified archaeological remains are uncertain. We consider that mitigation should therefore be considered in relation to addressing potential negatives.

Table 05 – DEVELOPMENT AND DESIGN

DE08: Advertisements and the Historic Environment -

HED advise the scoring in relation to the effect of this policy in its current form is likely to be scored uncertain or negative. HED acknowledge the provision of an advertisement policy around heritage assets is welcomed and expressed in SPPS the current policy fails to take sufficient account of the requirements around the hierarchy tiers of the requirements advertisements around listed buildings, conservation areas and areas of townscape character.

Table 06 - HOUSING IN SETTLEMENTS

HOU06: Public Open Space in New residential Development -

HED consider that although the score may be neutral, the policy on open space has the potential in some circumstances to provide for preservation in situ of any significant, and previously unidentified archaeological remains encountered during evaluative archaeological work to inform planning decisions.

Table 06 – HOUSING IN SETTLEMENTS

HOU07: Conversion / Change of Use of Existing Buildings to Self-contained Flats -

HED advise the scoring in relation to the effects of this policy is likely to be uncertain or negative due to the potential impact to the historic fabric within heritage assets, i.e. listed buildings and so on.

Table 07 - HOUSING IN THE COUNTRYSIDE

HOU10: Replacement of Other Rural Buildings –

HED would consider that the policy effects for the historic environment are potentially negative or at best uncertain. At present this is due to the inclusion of policy item 'c)' and its reference to 'vernacular buildings...an important contribution to the heritage, appearance or character of the area'. This item of the policy is in direct conflict with draft policy HE09, which already seeks to preserve 'unlisted locally important buildings or vernacular buildings'. If item 'c)' from the draft policy HOU10 is removed our concerns relating to potential negative impact may be alleviated.

Table 07 - HOUSING IN THE COUNTRYSIDE

HOU11: Redevelopment of former sites for dwelling

HED have concerns around the wording of this policy and perceive potential negative impacts on unrecorded heritage assets, such as farmsteads and abandoned settlements depicted on historic map editions, which have informed the character of the landscape. As worded we have a concern that item 'b)' in the policy may lead to pre-emptive removal of mature boundaries, or 'd)' to pre-emptive laying of services, for example, in advance of applying for planning permission. We are also concerned with item 'c)' in the policy which reduces the need for all structural walls to be intact (as per HOU 09) to having two or three walls substantially intact. This is in direct conflict with draft policy HOU09 and we consider could lead to confusion. We also consider that this policy (HOU11) could lead to removal of historic ruined farmsteads of varying periods and perceive a likely negative outcome for the historic environment through this policy. It is concerning that this is not considered in the context of the appraisal.

Table 11 - INDUSTRY AND BUSINESS

IB04: Industry and Business Development in the Countryside

HED would stress the intertwined relationship that the historic environment has with both the natural environment and landscape. We would advise that a negative or uncertain score would be appropriate here for effects on the historic environment including effects on historic landscape character and previously unrecorded below ground archaeological remain. We consider that potential forms of mitigation should be mentioned, although we would accept that these could become more detailed at Local Policies stage.

Table 13 – TOURISM

TOU02: Tourism Development

TOU04: Holiday Parks, Touring Caravan and Camping Sites

HED have concerns around the wording of these policies and perceive potential impacts to the historic environment. We advise that a negative score would be appropriate here for effects on the historic environment including effects on the setting of heritage assets and the historic landscape character and potentially on previously unrecorded below ground archaeological remains. HED stress the intertwined relationship the historic environment has with both the natural environment and landscape.

Table 15 - HISTORIC ENVIRONMENT

Historic Environment Division consider the significant changes in policy, as taken by Fermanagh and Omagh District Council do not take sufficient account of the SPPS. Therefore, the SA should have included an appraisal of an alternative option as to the effects of the plan without the policies, i.e. using the SPPS policies or existing policy to demonstrate how the proposed draft policies provide equal or enhanced protection to the historic environment compared to the SPPS and PPS6. There is no justification evidence (as per Soundness Guidance P3, CE2) apparent for the policy direction that has been taken, which we consider deviates from both the SPPS and the POP. We disagree with the statement in the commentary text that the preferred approach at POP has been *broadly carried forward* and believe that the

advice that we have provided during engagement and consultation on policy development puts into question the statement that no reasonable alternatives have been identified as a result of either policy development or consultation.

Viewed against the existing situation the policies overall will have significant negative outcomes for the historic environment.

Our comments here can be read against our comments provided on the soundness of the policy approach in the Draft Plan Strategy. We consider that the appraisal demonstrates a lack of understanding of the policy suite in PPS6 and of the strategic policies in SPPS which relate to Archaeology and Built Heritage. We also advise that in reassessing scoring, the relationship between the natural and historic environment needs better recognition e.g. many field monuments form important habitat refuges, and through their meaningful protection, help to maintain biodiversity.

As per our previous text HED provided expert advice in relation to the formation of these policies when in draft and we cannot see that this evidence has been taken into sufficient account. We are also concerned that the only reference to the candidate ASAI in the entire SA is in this table, when the evidence has an important linkage to both the plan strategy, the proposals maps and other evidence papers linked to the plan.

HE01: Historic Environment Overarching

HED strongly disagree with the double positive scoring afforded here, as we perceive the policy weakens the position in SPPS. The wording is firstly **supportive** of development that would **affect** a heritage asset or its setting. Mitigation and evaluative work are reduced from a policy bearing into clarification text which seems to imply that having a mitigation strategy will provide the basis for approval when it should be to address negative impacts. This implies a confused understanding of the existing policy suite and creates gaps in comparison to existing policy provision.

HED consider that the policy as worded will have a significant negative impact on the objective.

HE02: Archaeology

HED consider that the new wording creates significant policy gaps and creates vulnerabilities in relation to monuments of regional and local significance. We consider a significant negative score appropriate.

HE03: Listed Building

HED disagree with the scoring and consider that the policy as worded will have a significant negative outcome in relation to the ensuring the protection, conservation and enhancement of listed buildings and their setting.

HE04: Conservation Areas

HED disagree with the scoring and consider that the policy as worded will have a negative outcome in relation to the historic environment.

HE05: ATCs and AVCs

HED disagree with the scoring and consider that the policy as worded will have a negative outcome in relation to the historic environment.

HE06: Historic Parks, Gardens and Demesnes

HED consider that this policy is being carried forward broadly in line with SPPS and consider that the scoring should be neutral.

HE07: Local Landscape Policy Areas

HED consider that this policy is broadly being carried forward in line with the SPPS. We have some concerns around the wording though and recommend that this be adjusted as per our comments on the Plan Strategy to ensure a neutral-positive score.

HE08: Enabling development

HED consider that this policy as worded as having significant gaps which have the potential to lead to a significant negative outcome in relation to the protection, conservation or enhancement of a heritage asset and its setting through appropriate re-use.

HE09: Change of use/conversion/re-use of an unlisted Locally Important/Vernacular building

HED consider the policy as worded as being out of line with SPPS and having gaps which would lead to a negative outcome in relation to the historic environment.

We are greatly concerned by the policy approach and consider that there will overall be significant negative effects in relation to the historic environment. We consider that as a whole it is unsound, and not supported by the SA which is not robust in relation to assessment of the historic environment. We consider that the drafted policies require significant modification to take sufficient account of SPPS and avert negative effects.

Table 16 - NATURAL ENVIRONMENT

NE01: Nature conservation

This is not our area of expertise but HED consider that the policy wording here weakens existing policy protections in relation to the natural environment. Draft policy item '(a) (ii)' suggests that demonstration of mitigation can be a means to an approval – we envisage that there could be negative impacts in relation to the natural environment – The criteria outlined in draft policy item '(a) (iii)' do not seem to align with the SPPS, or the relevant statutory provisions.

NE03: Biodiversity

We consider that the approach taken is therefore not 'business as usual' (Reasonable Alternatives, pg.216) and that an appraisal of an alternative option of using existing protections would be appropriate.

Table 18 - FLOOD RISK MANAGEMENT

HED consider that draft policy FLD01 item b) creates potentials for negative impacts in relation to the historic environment, through potentially replacing unrecorded heritage assets in these areas with additional defensive work that could affect their associated settings or potential below ground archaeological remains. We consider a negative score would be appropriate.

Table 19 - RENEWABLE ENERGY

HED advise that we welcome that a Wind Energy Capacity Study was undertaken and it is clear that significant work has been undertaken in relation to renewables. However, we were disappointed and concerned that the study did not take a clearer account of the historic environment evidence bases, particularly the candidate ASAI. We have provided a comment on this study further in this response. As well as having concerns about adverse impacts on special landscapes we also have concerns around the prospect and impact of repowering in certain areas.

Table 22 - WASTE MANAGEMENT

HED consider that the approach demonstrated within this policy block does not convey a 'business as usual' approach (Reasonable Alternatives, pg.224) as the provisions of the policy do not align with the existing provisions of SPPS or PPS11. Refer to our comments on the policies within the draft Plan Strategy and we consider appraisal against an alternative option of retention of existing policies would be appropriate

Around draft policies WM01, WM02, WM03 and WM04 we envisage a potential negative outcome, for the natural and historic environments and landscape, as notably draft policy WM01 greatly weakens the environmental criteria of existing provisions and the SPPS.

6.0 - MONITORING AND IMPLEMENTATION (page 42 – Item 14)

HED consider that many of the proposed monitoring indicators are not meaningful enough in assessing the effects of the plan on the historic environment. We would advise that additional meaningful indicators should include, as an example, the monitoring of archaeological excavations arising as a result of planning applications (i.e. through requests for further information or through planning conditions in the district). This would aid monitoring the effectiveness of implementation the planning policies and mitigation.

We would also consider that monitoring of planning approvals which go against the advice of statutory consultees, such as HED in relation to polices for the historic environment, would be useful in monitoring the effectiveness of the plan in implementing policies and objectives, and understanding adverse effects.

Review of additional evidence sources available on the Fermanagh and Omagh District Council website:

LANDSCAPE WIND ENERGY CAPACITY STUDY FOR FERMANAGH AND OMAGH (by Ironside Farrar)

HED welcome that a wind energy study was undertaken, however we are concerned that this preceded by some months the Landscape Character Review. HED advise that the evidence we supplied specifically in relation to the candidate ASAI at Beaghmore and Creggandevsky should have been taken into account when considering implications of wind energy development in the areas for Beaghmore Hills and Marsh, and Carrickmore Hills. We acknowledge the identification of existing ASAI including the present extent of Beaghmore in Fig 3.6b. We highlight as per 2.3.1 that wind energy has a potential cross boundary effects outside the local authority area and this is particularly so with regard to the candidate ASAI areas. We would recommend that these areas of the study are reviewed to take account of the implications of this part of the historic environment base and to provide better linkage through the plan strategy as the guidance drafted does not take account of these areas, which if designated through the plan would form landscape designations in their own right and would have implications for wind energy development.

We consider the tables on Landscape Value to not be sufficiently robust in their assessment of Cultural Value as they take a narrow focus on designated heritage assets only, and are not in line with the policy recognition given in SPPS 6.8 and 6.9 to sites of regional, and local significance.

Page 14-16 Wind Turbines in the Study Area
No mention of existing single turbines in LCA 43

Page 46. Sandstone Ridges and Plateau LCT
LCA 16 Brougher Mountain
HED advise that Topped Mount is **designated** as an ASAI.

Page 59

LCA 24 South Sperrin – Discussion here should consider the candidate ASAI and the existing ASAI for Beaghmore,. It is particularly concerning from HED perspective that the transboundary implications in relation to the existing ASAI at Beaghmore have not been articulated.

Page 69. Lowland and Hills LCT

LCA 25 Beaghmore Hills and Marsh, 43 Carrickmore Hills

Discussion here should consider the candidate ASAI and the existing ASAI for Beaghmore and the candidate ASAI for Creggandevsky. It is particularly concerning from HED perspective that the transboundary implications in relation to the existing ASAI at Beaghmore have not been articulated.

Appendix 4: Assessment of Landscape Sensitivity for Landscape Character Area

HED have considerable concerns around the means by which cultural value is being measured in the tables for Landscape Value. We consider that it is insufficient and narrow in focus only to consider designated sites, buildings and monuments in assessing value as these form only a fraction of the wider suite of heritage assets in these areas.

LANDSCAPE CHARACTER REVIEW FOR FERMANAGH AND OMAGH (by Ironside Farrar)

HED welcome that a landscape character review has been carried out. We consider this a vital piece of work toward informing future sustainable development, however we are concerned that an opportunity has been missed to make the landscape character assessment more robust by including historic landscape character assessment. We consider that the historic environment has not been afforded enough recognition in the process, and are concerned that the review postdates by some months the wind energy capacity study for the authority area. (It would be the view of HED that this review should have informed such a study- it is welcome but telling that this mentions both candidate ASAI areas whereas the Wind Energy Capacity Study does not). It is particularly concerning that the report places an emphasis on designated cultural heritage (e.g. scheduled monuments and listed buildings) as being a signifier of cultural heritage character, as most of the landscape as we now perceive it has been shaped by human interaction. Historic environment evidence including field boundaries, routeways and parish and townland boundaries as well as our own historic environment records are a vital element of understanding it. It is disappointing that sometimes in the report content, characteristics such as historic farming and associated boundaries are recognised and referred to but with little clear correlation through articulation of their value as historic environment/cultural heritage assets. This oversight would be avoided if the current assessment was undertaken in combination with (or following) a historic character assessment as per the guidance set out in section 4.20 of the 2002 Landscape Character Assessment Guidance for England and Scotland (Scottish Natural Heritage/Countryside Agency)

Settlement Assessments

HED welcome the analysis for the seven 'main' and 'local' towns (as defined in the draft Plan Strategy) in terms of its landscape character. However, HED advise we consider that these should have given some articulation to the historic evolution of the settlement, and we are concerned that the historic environment characteristics are not more apparent in informing principles for development. We would also advise in the case of all of the assessments, that areas of archaeological potential have been identified for these towns and are not captured/recognised in the assessment text.

LANDSCAPE DESIGNATIONS REVIEW FOR FERMANGH AND OMAGH (by Ironside Farrar)

HED has considered the content of the Landscape Designations Review. We advise that for the purposes of clarification, the Historic Monuments Council has been consulted on the identification of the ASAI at Creggandevsky and the expansion of the Beaghmore ASAI as per requirements in SPPS 6.29. The process of identification is therefore complete, - designation can only happen through the plan.

Proposed Areas of High Scenic Value

HED consider that the content in relation to the significance of each landscape is often vague in relation to the cultural heritage assets it contains.

The assessment table in relation to cultural heritage in Appendix 1 presents a vague and rather meagre overall generalised evaluation of cultural heritage value that while naming some individual sites and places, does not really articulate any of the distinctive characteristics. We advise with regard to Brougher that Topped Mountain is an ASAI, not an ASSI.

CONSIDERATION OF REPRESENTATIONS RECEIVED TO THE PREFERRED OPTIONS PAPER (dated October 2018).

HED are concerned that our key comment in relation to our specific concern and advice over the policy approach for Archaeology and Built Heritage articulated in the Preferred Options Paper has not been considered in this report. We cannot see how these have been addressed and cannot find evidence in the Sustainability Appraisal which justifies the approach taken in the Plan Strategy which deviates from Strategic Planning Policy in relation to the Historic Environment.

Within the issues section, under 'Renewable Energy' comment is made to applying caution when dealing with historic buildings or historic areas. However, under the 'consideration' section adjacent no reference to how this will actually be taken into account.

Appendix 2 of the Preferred Options Paper (Summary of Carried Forward Policies) articulated that many of the historic environment policies – e.g. PPS6 BH1-4, BH6-10 were considered to be working well but would “*be monitored and potentially updated*”. HED can find no evidence in the SA for monitoring having taken place, nor any articulation that justifies the policy approach taken in the plan strategy, which deviates from policies that were “working well”.

Section 4.5

HED consider that the policies for the historic environment are not in line with the SPPS, and we believe that given the deviation that is apparent, which we consider reduces the thrust of and weakens the SPPS policies, SA of reasonable alternatives (e.g. retention and implementation of SPPS policies) should have been undertaken. The only appraisal of Reasonable alternatives apparent in the Table 4 – Reasonable Alternatives, is in relation to HE02 ASAI. We consider this to be insufficient and not addressing the wider fact that the plan strategy policies articulates deviation from the SPPS in relation to many of the historic environment policies.

Conclusion Regarding SA in Relation to Historic Environment

Section 2.12 of the SA report articulates that the SA assessment panel included representatives from external bodies/development planning professionals, with technical expertise related to the SA objectives, were involved at various stages as part of an assessment panel...” HED would question what heritage expertise was on the panel in relation to assessing the effects of the plan in relation to the historic environment and the associated objective.

Section 2.23 of the SA report Process and record Keeping

HED advise that we were consulted on the policy approach for the historic environment and provided comprehensive feedback and advice at that time. We consider that our expert advice has not been taken into account in either the drafting or appraising of historic environment policies. We can see no demonstration of consideration of our commentary in the SA, or of evidence which would justify what we consider to be a negative direction taken through the draft policies.

HED highlight our serious concern over the draft Historic Environment Policies and their assessment in relation to effects on the historic environment and believe that significant revision is required to increase soundness of the policies and robustness in the SA. We believe

that as articulated the policies have potential to lead to contravention of legislative protections and failure to meet obligations under international conventions on the protection of archaeology and built heritage as well as regional strategic objectives. Overall we envisage a significant negative outcome for the historic environment.

Yours sincerely,

[Redacted]

Senior Architect (acting):

[Redacted]

Senior Archaeologist:

Heritage Records and Designations Branch

Cc

[Redacted]

(HED Assistant Director)
ED Assistant Director)



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)

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[REDACTED]

Job Title (Where relevant)

Senior archaeologist – [REDACTED] Senior architect – [REDACTED]
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or

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

First Name

Last Name

Job Title (Where relevant)

Organisation (Where relevant)

Address

Postcode

Telephone Number

Email Address

SECTION 2. Representation

What is your view on the Draft Plan Strategy?

Sound

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

(Continue on a separate sheet if necessary)

OR

Unsound ☒

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

Soundness Test No:

- P1 - Has the Draft Plan Strategy been prepared in accordance with the council's timetable and the Statement of Community Involvement?**
- P2 - Has the council prepared its Preferred Options Paper and taken into account any representations made?**
- P3 - Has the Draft Plan Strategy been subject to sustainability appraisal including Strategic Environmental Assessment?**
- P4 - Did the council comply with the regulations on the form and content of its Draft Plan Strategy and procedure for preparing the Draft Plan Strategy?**
- C1 - Did the council take account of the Regional Development Strategy?**
- C2 - Did the council take account of its Community Plan?**
- C3 - Did the council take account of policy and guidance issued by the Department?**
- C4 - Has the plan had regard to other relevant plans, policies and strategies relating to the council's district or to any adjoining council's district?**
- CE1 - Does the Plan Strategy sets out a coherent strategy from which its policies and allocations logically flow and where cross boundary issues are relevant it is not in conflict with the Draft Plan Strategies of neighbouring councils?**
- CE2 - Are the strategy, policies and allocations realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base?**
- CE3 - Are there clear mechanisms for implementation and monitoring?**
- CE4 - Is it reasonably flexible to enable it to deal with changing circumstances?**

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

- (i) **Relevant Paragraph**

HED believe the draft Plan Strategy to be unsound. HED has added comments and suggestions where we consider the draft Plan Strategy should be made sound.

Our response relates primarily to impact of the draft Plan Strategy on the Historic Environment (section 5.0) primarily draft policies HE01 to HE09, including items 5.1 to 5.30. However, where we have had the opportunity we have also framed responses around other policies as we deem appropriate to impacting the historic environment. As necessary we have made reference to the relevant policy.

The comments provided below are reflective of our concerns with regards to how the draft Plan Strategy is approaching protection, conservation and, where appropriate, enhancement of the historic environment, particularly through the Historic Environment (section 5.0) policies. Our not having provided comment on other sections of the draft Plan Strategy document should not be considered as an endorsement of proposals and we would expect other consultees to provide detailed comment on their areas of expertise.

(ii) Relevant Policy

Historic Environment (section 5.0) primarily draft policies HE01 to HE09 (inclusive), including items 5.1 to 5.30 (inclusive).

In addition, comments also relate to the following sections:
Section 2 - Development and Design, Section 3 – People and Places, Section 4 – Economy, Section 6 – Infrastructure, Section 7 – Monitoring and Review, Glossary, Appendix 1 and Appendix 5.

(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.

Note: Due to the volume of our response we have (below) provided a narrative type response combining our comments to both sections relating the 'Details' why we consider the draft Plan Strategy to be unsound and 'Modification' within the same body of text. We

consider replying in this manner ensures a clarity is given to what topics are unsound, alongside our suggested changes to make the draft Plan Strategy sound.

In accordance with the 'Details' section of the questionnaire we have expressed the relevant soundness tests for each topic we have considered.

In accordance with the 'Modifications' section of the questionnaire we have expressed a suggested correction to make the draft Plan Strategy sound.

(Editorial notes for clarity:

Under each topic heading words in **bold** relate to the soundness tests we deem to apply.

Under each policy heading words and/or phrase extracts in **bold** relate to text extracted for the draft policies.

Under each policy heading words and/or phrase extracts in **bold** and underlined relate to edited and/or suggested corrections to the text.

Under each clarification heading words and/or phrase extracts in *italic* relate to text extracted for the draft policies.

Under each clarification heading words and/or phrase extracts in *italic* and underlined relate to edited and/or suggested corrections to the text).

5.0 – Environment

Historic Environment – Context and Justification (text section of policy suite).

Historic Environment Division advise that we have significant concerns around the draft policies for the historic environment and do not believe that they are sound or will successfully achieve the strategic objective or the objectives of the Regional Development Strategy and the SPPS. We strongly oppose the direction being taken in the draft which reflects a significant divergence from policies in SPPS and which we consider will lead to reduced protection and significant adverse effects on the historic environment. We consider that the policies as draft would fail to meet our obligations in relation to International Conventions on Heritage to which the UK is a signatory (e.g. The Valletta Convention and The Granada convention).

The draft policy does not demonstrate solid understanding of existing policies, strategic policy or of legislative provisions affecting heritage assets. Concerningly it is not in alignment with the approach outlined for the Historic Environment in the councils Preferred Option Paper (POP). HED must also advise that we provided detailed feedback when consulted about the policy content, and while we note some changes since that draft we do not consider that our concerns have been addressed. (Reference: 'Consultation on Emerging Draft Plan Policies', HED provide consultation responses during October and November 2017).

Our comments in relation to sustainability appraisal are composite with this response as we consider that the evidence in relation to the historic environment is out of date, the assessment is not robust, and the evidence does not justify policy direction being taken by the council in relation to the historic environment. We consider this to be a significant

soundness issue with a number of policies we have reviewed and have cited the appropriate Soundness test reference in each case.

Where we have suggested corrective text to make the policies and text sound this is emboldened. Unfortunately in several cases HED consider it impossible to make these policies sound through occasional word changes, and here substantive areas of text are therefore drafted and **emboldened** and underlined. In these cases we have advised where text in the draft policy needs to be removed and replaced/rewritten in order to make the policy sound.

Policy HE01 – Historic Environment Overarching, including its Policy Clarification text.

HED consider the policy, which attempts a new policy rather than carrying forward a policy, fails the **Procedural test (P2, P3 and P4) Consistency test (C1 and C3) and Coherence and effectiveness test (CE2).**

This policy is unsound and does not take sufficient account of **RDS RG11** and **SPPS 6.10** and **6.11** and representations made by HED from the evidence base we have provided to date, e.g. when consulted on the POP and then later on draft policies as noted above.

The evidence supplied in SA (see comments provided separately in relation to SA at plan strategy) is not robust to justify the approach being taken which in fact diverges from regional strategic policy. The evidence consideration in the SA demonstrates no clear understanding of existing distinct policies, which the POP acknowledged were working well, and does not outline a clear rationale for the new area specific policy proposals for the council area, and does not rigorously assess them. The approach is not in line with that articulated in the Preferred Options Paper, (to which HED had articulated some concern which we highlight is not addressed in the published Consideration of Responses Received to Preferred Options Paper, dated October 2018, on the council’s website).

HED are of the view that this policy wording cannot be made sound and are very concerned about the direction taken in the draft which seems more about what can facilitate development than protecting the historic environment resource. There are elements of the clarification text that should be articulated into a policy, along with additional text but what should be distinctive and clear policy has in effect been left out.

Our proposed changes which entail incorporating elements of the clarification text into a policy block for archaeology with those elements in draft policy **HE02** would help make the policy approach sound and take sufficient account of **SPPS**.

➤ **Policy HE01 – Historic Environment Overarching**

This draft policy is vague and contradictory in its wording - supporting “**development proposals which “affect” a heritage asset**” (the implication is adversely affects) where it is demonstrated that it “**protects, conserves and enhances**” the significance of the asset or its setting. Supporting development that would (adversely) affect a heritage asset would not be in line with the objective of protecting, conserving and enhancing (where

possible), or of protecting the historic environment “*for its own sake*” (aims of **RDS** item **2.10**).

HED suggested correction: draft **policy HE01** in its current form must be omitted.

➤ **Policy HE01 – Policy Clarification**

The clarification text needs a complete rewrite to become actual policy specific to archaeology, and to align with **SPPS**, notably **6.10** and **6.11**. These policies are part of a flow in relation to decision making on archaeological remains, of which no understanding is demonstrated in the draft plan strategy approach.

Within this clarification section we consider elements of the text do not aid the clarity of the meaning of the policy, or the decision making process, making the policy even less sound. We have set out our concerns around soundness and then the necessary corrective text below:

Item 5.5 – Reduces an important strategic policy (SPPS 6.10) into clarification text and attempts to amalgamate a strategic policy dedicated to archaeological concerns with other issues. The basis of this strategic policy in SPPS is to have provisions in place to request further information such as archaeological evaluation, particularly where the impact of a development proposal on **archaeological remains** is unclear or the relative significance of such remains is uncertain – Archaeological evaluation should be requested on the basis of expert advice (i.e. usually as a result of HED responding on a consultation). It may not be necessary in every circumstance, and often the need for evaluation can become apparent when an application for a development has already been submitted. The draft clarification attempts to be a catch all to have all necessary information in advance, which may not always be achievable, but makes no provision to be able to request further information as per SPPS 6.10 and PPS6 BH3. The text is inconsistent with SPPS, is not policy, and does not take account of advice previously given to the council by HED in regard to an unsound approach.

HED suggested correction: item 5.5 in its current form is to be omitted.

Item 5.6 – HED have major concerns with what is being advocated here, i.e. “*mitigation measures...can provide the basis for the approval of development proposals*”. HED strongly oppose this policy clarification direction, which is not in line with international obligations on heritage, under the Valetta Convention, to which the UK is a signatory. Mitigation is a last resort to address adverse impacts and should not be viewed as a means to approval. Archaeological excavation is a destructive process, often removing the heritage asset, which as per SPPS 6.11 involves recording, examination, and archiving of the archaeology by **way of conditions**. The articulated wording in this clarification text attempts to amalgamate the concerns of strategic policy SPPS 6.11 with other issues, and misses the key point that mitigation may be required by **way of planning conditions**. It is confusing that the text on mitigation has been split off from the two bullet points in draft Policy **HE02**, item 5.7, which are components of mitigation policy as per SPPS 6.11. The text as written is no longer policy as per SPPS 6.11 and PPS6 BH4 and is not fit for purpose.

HED suggested correction: item 5.6 in its current form is to be omitted.

We advise that policy around requesting further information and mitigation must be included in a redrafted policy for archaeology, to take account of SPPS. A suggested lay out is included in the next section for HE02.

Furthermore:

Appendix 5 – The fourth bullet point intimates that proposing mitigation one may be more likely to achieve planning permission. See comment in relation to item 5.6.

As guidance HED advise that this is extremely vague and demonstrates a very meagre understanding of the processes it attempts to offer guidance for, - there is no mention of setting in the heading, nor is there any mention of archaeological evaluation/mitigation, around which strategic policy in SPPS 6.10 is articulated.

HED strongly advise that Appendix 5 be removed and that a line inserted alongside redrafted policy (as per our further commentary below) that states that guidance as to what may be required for applications related to a heritage asset or its setting can be sought from HED, or by consulting;

<https://www.communities-ni.gov.uk/publications/guide-consulting-hed-development-management-applications>

Policy HE02 – Archaeology, including its Policy Clarification text.

HED consider that the policy and associated clarification text is unsound in that it fails the procedural test **Procedural test (P2)** and **Consistency test (C3)** and **Coherence and effectiveness tests (CE1 and CE2)**.

HED consider that our suggested amendments will enable the draft policies to become sound.

The policies articulated here are generally in line with **SPPS** notably **6.8** and **6.9** but they need to be made more sound with adjustments as highlighted below. Policy item a) needs adjusting with some additional wording inserted and some of the wording can be moved into clarification text rather than policy. Policy item b) is sound. However, we consider additional policy items are required to achieve soundness and clarify the current confusion created from the draft policy HE01 and missed linkage between items within both HE01 and HE02 as set out above under our comments on HE01. The clarification text is presently very problematic and unsound, demonstrating a vague understanding of the evidence base, appearing muddled and out of sequence in approach and needs significantly more work to make it sound. For example policy clarification item 5.7, is about mitigation, should be the last point touched on in clarification as it relates to the what should be the last policy in the flow, dealing with adverse effects on archaeological remains. The clarification text makes no reference to Areas of Archaeological Potential as per SPPS 6.29, and provides no clarity as regards specific and important separate legislative requirements around Scheduled Monument Consent for works that would affect scheduled monuments. This could lead to adverse impacts on the historic environment, and potentially criminal acts. We have provided a redraft of clarification text for an amended policy block (below) on Archaeology that we believe would make it sound.

As with our previous comments on HE01 HED advise that our previously expressed concern around the option for the historic environment articulated in our response to the POP has not been included in the published Consideration of Representations from Preferred Options, and that our expert advice in relation to drafts of these policies has not been taken on board.

➤ **Policy HE02 – Archaeology**

Draft Policy **HE02**, as per previous comments, HED consider, as stated above, that the present HE01 and associated clarification must be omitted, therefore significant renumbering of the Historic Environment policy section (policies and clarification numbering) will need to be undertaken by the Council. For clarity of reading our comments alongside the draft Plan Strategy document HED have continued to use the Councils reference numbers therein. HED advise that to achieve soundness all of the Archaeology policies should be moved under a new **HE01**, dedicated solely to **Archaeology** for purposes of clarity and consistency with Regional Strategic Policy.

HED suggested correction:

Policy item a) – Archaeological Remains of Regional Importance and their settings. These sites (or constituent parts of them) benefit from statutory protection. Development proposals which would adversely affect archaeological remains of regional importance or the integrity of their settings will only be permitted in exceptional circumstances and where the proposal is of overriding importance in Northern Ireland.

Policy item b) – No suggested correction - This policy text is sound as drafted.

The current clarification text of **HE01** attempts to amalgamate two strategic policies relating to archaeology with a range of other issues, simultaneously missing out information which at present confusingly sits in the clarification text for the draft policy **HE02**. We would advise that draft policy **HE02** is expanded to include new items ‘c’ and ‘d’ as set out below.

HED suggested corrections to take account of SPPS notably 6.10 and 6.11:

New Policy item c) – The Council will seek all necessary information from applicants to make well informed planning judgements, particularly where the impact of development proposals on archaeological remains is unclear or the relative significance of such remains is uncertain. Should an applicant fail to provide a suitable assessment or evaluation on request, the Council will refuse planning permission.

New Policy item d) – Where it is decided to grant planning permission for development which will affect sites known or likely to contain archaeological remains the Council will impose planning conditions to ensure that appropriate measures are taken for the identification and mitigation of the archaeological impacts of the development, including where appropriate, the preservation of remains in situ, or a licensed excavation, recording, examination and archiving of the archaeology.

The above text is sound and in alignment with SPPS notably 6.10 and 6.11. Key issues from strategic policy on archaeology are articulated as policy here. HED advise that we have included suggested clarification text on these policy issues in the suggested redraft below of the clarification text of your HE02 in order to make the total policy approach on archaeology sound.

In presenting the policy text as articulated above the policies would align with SPPS and retain their distinctiveness as specific individual branches of the archaeology policy. They also critically, place mitigation as the last in the flow of policy approach in relation to archaeology, as it is the last option/resort in the sequence when remains are threatened and may require excavation which is by virtue, a scientific removal of the asset.

➤ **Policy Clarification**

Regarding Clarification we advise if our advice is followed and the present unsound policy HE01 is omitted along with its clarification text the following corrections must be made to the clarification text under draft policy HE02:

Item 5.7 This should be omitted in its present form and clarification text on mitigation be laid out as per our suggestion further below

Item 5.8 –

HED suggested correction: *Archaeological Remains of Regional Importance include monuments in State Care, Scheduled Monuments, Areas of Significant Archaeological Interest (ASAI) monuments that would merit scheduling and candidate ASAI*¹

New item – *Monuments in State Care and Scheduled Monuments have statutory protection under the Historic Monuments and Archaeological Objects (NI) Order 1995. Works that would affect a scheduled monument require scheduled monument consent under Article 5 of this order, a permission separate from planning permission. Accordingly where applicants are considering applying for planning permission which would affect a scheduled monument they are advised to contact Historic Environment Division in advance to discuss whether Scheduled Monument Consent is achievable, and to have this permission in place in advance of seeking planning permission.*

Items 5.9, 5.10 and 5.12 –

New item – *ASAI are areas of particularly distinctive historic landscape. They contain a number of individual and related sites and monuments and may be distinguished by their landscape character and topography. In order to protect and preserve their integrity it is important that their character and setting are protected. The district contains four ASAI, at Topped Mountain, Devenish, Creggandevosky and Beaghmore, the latter two being cross boundary areas of landscape shared with Mid Ulster Council Area. Within the LPP, in line with SPPS requirements, specific policies will be developed for each of the ASAI within the Council Area which will recognise and respond to their unique characteristics and will provide guidance on the types of development that may be acceptable. For the candidate*

¹ Candidate ASAI are areas upon which Department for Communities Historic Environment Division have consulted the Historic Monuments Council has been consulted in regard to their identification as per SPPS 6.29, but which have not yet been designated as ASAI through a LDP

ASAI this will build on the Statements of Significance, which will themselves remain a material consideration in assessing the impacts of development proposals on these landscapes.

(the rest of the text in this block of your clarification text is sufficient and sound)

Item 5.11 - Omit item in its entirety given inclusion in text above

Item 5.13 – The text is generally sound. However HED advise that the last line be altered to read as per the correction below:

HED suggested correction: *These can include sites and monuments that are not scheduled, buildings and structures of Industrial Heritage or Defence Heritage and Battlesites.*

Item 5.14 - It is recommended that the introductory sentence to the 5 bullet points should be revised to read as per the correction below:

HED suggested correction: *The factors below may be included as indicators to aid in assessing local significance in a wider judgement based on the individual circumstances of a case.*

Subject to the suggested change it may be possible to add 5.14 to the end of the text block for 5.13

New item: *Prospective developers need to take into account archaeological considerations and should deal with them from the beginning of the development management process. It is in the developers interests to establish whether a site is known or likely to contain archaeological remains as part of their assessment of its development potential prior to submitting a development application. A good first step is to visit DfC Historic Environment Divisions website, which provides online mapping in relation to the historic environment. Informal discussion with HED will also help provide advice in relation to the archaeological sensitivity of a site. In certain cases the council may use its powers under the Planning Act (Northern Ireland) 2011 to request further information in the form of an archaeological assessment or evaluation. These can help determine the importance, character and extent of any archaeological remains that may exist in the area of a proposed development and indicate the weight which should be attached to their preservation. They will also provide information that may be useful in developing options for minimising or avoiding damage. Such information will enable the Council to make an informed and reasonable planning decision.*

Areas of Archaeological Potential will be highlighted, for the benefit of prospective developers in the Local Policies Plan. These are those areas within settlement limits, where on the basis of current knowledge, it is likely that archaeological remains will be encountered in the course of continuing development and change.

New item – *In some cases it will be possible to permit development proposals which affect archaeological remains, provided appropriate mitigation measures are in place which preserve the remains in situ in the final development or ensure excavation recording and archiving prior to their destruction. Mitigation may involve design alterations to ensure preservation of remains, which is the always the preferred option. Alternatively there will be occasions where archaeological remains are of lesser importance, where the value of*

remains is not sufficient when weighed against all other material considerations, including the importance of the development, to justify preservation in situ. In such cases developers will be required to prepare and carry out a programme of archaeological works, working to a brief detailed in HED statutory consultation responses and advice. Offers of facilitation of excavation by developers will not justify a grant of planning permission for development which would damage or destroy archaeological remains whose physical preservation is desirable because of their importance, and feasible.

New item – There may be occasions when the presence of archaeological remains only becomes apparent once an approved development has already commenced.² In such circumstances it is a statutory requirement that these are reported to HED. On rare occasion the importance of such remains may merit scheduling in which case the developer would need to seek separate scheduled monument consent before they continue work. In most cases it should prove possible for differences to be resolved through voluntary discussion toward agreement of a mitigation strategy for a satisfactory compromise to be reached.

HED recognise that we have drafted significant suggested corrections to the current draft above, almost a complete rewrite, but we must advise that we have articulated these changes in order to make the policies sound. The present draft in the draft Plan Strategy does not take any account of legislative provisions around scheduled monuments, Areas of Archaeological Potential, or the need to occasionally address unexpected archaeological remains that may arise during ongoing approved developments.

HED advise that areas for the candidate ASAI on Proposals Map 1 North east provided should actually show where and how these zones transcend the boundary with Mid Ulster district, showing the entire areas. There are cross boundary policy implications here which need to be considered and assessed in the strategy but which are not (DP Guidance Note 6 Soundness – test C4 applies). We advise that the depiction of the areas as limited only to the council district is unsound as it does not reflect the evidence base supplied and because the setting of the ASAI on each side of the boundary is an important policy consideration.

Policy HE03 – listed Buildings and their Settings, including its Policy Clarification text.

HED consider the policy fails the **Procedural test (P2), Consistency test (C1 and C3) and Coherence and effectiveness test (CE2)**. This policy is not sound.

HED consider the draft policy and its clarification text, in its current form, it **not sound**. It does not take sufficient account of **RDS RG11**, notably **3.30, SPPS**, notably **4.26, 5.9, 5.16, 6.12, 6.13, 6.15** and **6.18**, and representations made by HED from the evidence base we have provided to date.

² The Historic Monuments and Archaeological Objects (NI) Order 1995 requires the reporting of the discovery of any archaeological object.

HED consider the suggested amendments will enable the draft policies to become sound.

➤ **Policy HE03 – listed Buildings and their Settings**

Policy item a) ‘Alterations and extensions to a listed building’ – only consider works directly attached to a listed building. HED consider the policy as set out does not allow for how a development in the setting of a listed building will be considered, i.e. how new development not physically attached to the listed building could impact a listed building. HED’s preferred option would be to have four separate sub-sections, if separate policies are not an option, for the following criteria topics;

HED suggested correction: “**(i) Alterations and extensions to a listed building, (ii) Development in the setting of a listed building, (iii) Change of use and (iv) Demolition of listed building.**”

Such an approach would provide soundness to the policy approach.

The first bullet point of the draft policy must be expanded.

HED suggested correction: “**The essential character, its special architectural and/or historical interest, integrity and setting of the listed building...**”

If four separate sub-sections (as suggested above) cannot be created, pending evidence to back up such as decision, an alternative approach, which HED consider less robust or sound, would be to split the second bullet point of the current draft policy to create two separate items;

HED suggested correction:

- “**The proposal makes use of quality materials and techniques (traditional and/or sympathetic) in-keeping with architectural details of the listed building;** and
- **The detailed design respects the character and appearance of the listed building and its setting in terms of scale, height, massing, proportion and alignment.**”

The third bullet point of the draft policy must be expanded.

HED suggested correction: “**...the use is compatible with the fabric, appearance, setting and character of the building.**”

Policy item b) ‘Demolition of a listed building’ – The policy text under this item is a major concern and we deem it to be unsound. The policy sub-section must enshrine listed buildings will be retained and form the opening line of the policy sub-section.

HED suggested correction: “**There will be a presumption in favour of retaining listed buildings. The total or part demolition of a Listed Building will only be permitted...**”

Evidence required for giving examples of what may be considered as ‘exceptional circumstances’ must be set out in the Policy Clarification text.

Policy item b) – The second bullet point is too easily open to misinterpretation. HED acknowledge this bullet point has been extracted from SPPS, item 6.13. However, the statement has been edited and is out of context with SPPS. Importantly the full context of SPPS 6.13 is around the need for applicants to have a clear understanding of the

importance of the heritage asset and how any proposal impacts on the listed building to ensure a proposal can be justified under any policy, e.g. from alterations and extensions to demolition.

HED suggested correction: (the second bullet point of the policy item should be omitted)

- ~~“Demolition is desirable or necessary, including where the structural integrity of the building is dangerous and beyond repair”.~~

Policy item b) – The second sentence of the second bullet point is poorly written and unsound. It is also open to misunderstanding or misinterpretation. SPPS states where demolition is granted, consent of the sites re-development is conditional to any demolition to be granted, i.e. demolition must not result in a gap site being created without a firm proposal in place to redevelop the site. Therefore, we consider the second half of the second sentence should be omitted with an additional bullet point inserted.

HED suggested correction:

- ~~“in such cases...building prior to demolition and for the timely redevelopment of the site ; and~~
- Where consent for the total demolition of a listed building, or any significant part of it, is granted, this will be conditional on prior agreement for the redevelopment of the site.”

➤ **Policy HE03 – Policy Clarification**

HED consider the Clarification text is unsound, as it does not assist in clarifying the meaning of the policy or the decision making process in relation to works impacting a listed building or its setting. As stated above, ‘development in the setting of a listed building’ is not protected under the current policy text or test.

HED suggest the following corrections and/or additional text to make the policy and its clarification text to take sufficient account of the evidence base, notably SPPS and PPS6.

HED suggested additional and/or correction text for considering extensions and/or alterations to a listed building:

New item – In determining the effect of any alternation or extension the council, with the statutory consultee, will assess the elements that make up the special interest of the listed building and its setting. This may comprise not only the obvious visual features such as decorative facades and its setting or, internally, staircases or decorative plaster ceilings, but also the spatial layout of the building, the archaeological or technological interest of the surviving structure and the use of materials.

HED suggested additional and/or correction text for considering the setting of a listed building:

New item – The setting of a listed building is often an essential part of a buildings’ significant character. Therefore, the design of the new buildings to stand alongside heritage assets is particularly critical. The extent to which proposals will be required to comply with the criteria will be influenced by a variety of factors: the character and quality of the listed building; the proximity of the proposal to it; the character and quality of the setting; and the extent to which the proposed development and the listed building will be

experienced in juxtaposition; and how the setting of the heritage asset is understood, seen, experienced and enjoyed and the impact of the proposal on it.

HED suggested additional and/or correction text for considering the demolition of a listed building:

New item – Structural issues will not be given substantive weight when making a case of demolition where these have arisen due to neglect of a listed building through lack of maintenance or failure to secure by current or previous owners. Evidence will be required to indicate alternative options for stabilisation of the existing structure have been considered in efforts to retain the listed building. Reports submitted for consideration on the integrity of the building, including structural integrity, must be submitted by suitably experienced engineers, architects, building surveyors and so on, e.g. in conservation.

New item – Demolition of a listed building will not be considered in isolation from proposals for subsequent redevelopment. The council will request applicants to submit detailed drawings illustrating the proposed redevelopment of the site to accompany a listed building consent application for demolition.

HED suggested additional and/or correction text for inclusion:

New item – Council refer to the legislative requirement for a Listed Building Consent application for any works to listed building would affect its character as a building of special architectural or historic interest

Item 5.15 – HED consider the second and third sentence of this item could be omitted.

HED suggested correction: “~~Listed Buildings are buildings or structures (including walls or bridges) of special architectural or historic interest. There are different grades of listed Building which is an indication of their significance. When designated, specified features of significance may have also been identified. Notwithstanding this, Prior to undertaking any development proposal affecting a listed building or its setting...~~”

Item 5.16 – HED consider the first sentence must be included within the policy text, and therefore can be omitted from the clarification text. See HED comments around policy item ‘b’) above.

HED suggested correction: “~~The premises will always be that listed building is retained and conserved. In exceptionally rare cases where the demolition of a listed building...~~”

Item 5.16 – HED consider the second sentence is to be expanded around the issue of ensuring a vacant plot is not left after the demolition of a listed building.

HED suggested correction: “...~~In exceptionally rare cases where the demolition of a listed building is granted by way of this policy it will be unacceptable to leave a vacant plot within the streetscape, wider townscape.~~”

Note: HED consider the text ‘struck through’ can be omitted from the clarification text as their inclusion omits the negative impact demolition of a listed building in a rural setting can have on the character of the area.

Item 5.16 – HED consider this item must be expanded around the issue of necessary evidence that would be required, as minimum, when seeking the demolition of a listed building.

For suggested HED corrections around the issue of demolition of a listed building and evidence required as part of any assessment see our previous comments above. HED recognise that we have drafted significant suggested corrections to the current draft above, almost a complete rewrite, but we must advise that we have articulated these changes in order to make the policy sound.

Policy HE04 – Conservation Areas, including its **Policy Clarification** text.

HED consider the policy fails the **Consistency test (C3)** and **Coherence and effectiveness test (CE2)**. This policy is not sound.

HED consider the draft policy and its clarification text, in its current form, it **not sound**. It does not take sufficient account of **SPPS**, notably **4.26, 5.9, 5.16, 6.15, 6.18** and **6.19**, and representations made by HED from the evidence base provided to date.

HED consider the suggested amendments will enable the draft policies to become sound.

➤ **Policy HE04 – Conservation Areas**

Policy item (a) – within its opening sentence states “...**preserved or enhanced**...”. This is a lesser policy test than required.

HED suggested correction: “**In the interests of enhancing or preserving the character of a Conservation Area...**” (This alternation will also ensure consistency and linkage with the clarification text under item 5.18).

Policy item (a) – first bullet point one relates to the character of a development in a conservation area should respect the characteristics of adjoining buildings. HED consider this as a limiting and does not acknowledge the character of a conservation area is determined by the group value of the whole area.

HED suggested correction: ‘**...built form of the area and respects the overall character and appearance of the place in terms of scale, form, materials and detailing**’

Policy item (a) – third bullet point one relates to the requirement to protect and enhance the views within, into and out of a Conservation Area. HED consider this as a stronger policy test than required under SPPS, and may cause conflict and/or confusion with other policy tests, notably draft HE03.

HED suggested correction: ‘**important views within, into and out of the area are enhanced or preserved.**’

Policy item (b) – the emphasis of the text fails strategic requirements and must be made sound.

HED suggested corrections: ‘**Development proposals involving the demolition of an Unlisted Building in a conservation Area will only be permitted in exceptional circumstances where it is demonstrated that the existing building makes no**

material contribution to the character and appearance of the area; and where it is demonstrated that the new building enhances the character or appearance of the area...

➤ **Policy HE04 – Policy Clarification**

HED consider the Clarification text is unsound as they do not acknowledge the hierarchy policy tests between listed buildings and conservation areas. In addition, we consider the text as drafted does not assist in clarifying the meaning of the policy or the decision making process in relation to works impacting a conservation area.

Item 5.18 – HED has concern with the inclusion of the bullet points under this item, as they are providing a greater policy test than required under SPPS and in addition, why seek a stronger policy test than currently required under draft policy HE03. This has potential to create significant confusion in the hierarchy approach to the protection of our heritage assets. HED advise caution in retaining this suit of bullet points under the conservation area policy without, as minimum, equivalent tests applied to the listed building policy HE03.

Item 5.19 – HED has concern with the inclusion of the second sentence within this item. As the wording here is providing a greater policy test than currently required under draft policy HE03. This has potential to create significant confusion in the hierarchy approach to the protection of our heritage assets. HED advise caution in retaining this sentence under the conservation area policy without, as minimum, equivalent tests applied to the listed building policy. (See HED previous comments under draft HE03).

Policy HE05 – Areas of Townscape Character (ATCs) and Areas of Village Character (AVCs) including its Policy Clarification text.

HED consider the policy fails the **Consistency test (C3)** and **Coherence and effectiveness test (CE2)**. This policy is not sound.

HED consider the draft policy and its clarification text, in its current form, it **not sound**. It does not take sufficient account of **SPPS**, notably 5.9 and 6.21, and representations made by HED from the evidence base provided to date.

HED consider the suggested amendments will enable the draft policies to become sound.

➤ **Policy HE05 – Areas of Townscape Character**

Policy item (a) – Within the second bullet point HED consider the referral to “archaeological” can be removed as it is covered under its own policy respectively. HED suggested correction: ‘**Any trees, townland or parish boundaries or other landscape features are protected...**’

➤ **Policy HE05 – Policy clarification**

Item 5.21 – HED advise that the final sentence is not in line with the SPPS as it refers to “reinforce” which has a difference meaning from the strategic policy requirement to “maintain”.

HED suggested correction: ‘...For this reason it is important that the design, scale, massing and finishes of any development proposal maintain and enhance the unique character of the ATC/AVC.’

Item 5.22 - HED advise that the final sentence is not in line with the SPPS as it refers to “retain” which has a difference meaning from the strategic policy requirement to “maintain”.

HED suggested correction: ‘...In such cases, in order to maintain and enhance the existing unique identity of the ATC/AVC...’

Policy HE06 – Historic Parks, Gardens and Demesnes

HED consider the policy fails the **Consistency test (C1 and C3)** and **Coherence and effectiveness test (CE2)**. This policy is not sound.

HED consider the draft policy and its clarification text, in its current form, it **not sound**. It does not take sufficient account of **RDS RG11**, notably **3.30** and **SPPS**, notably **6.16** and **6.17**, and representations made by HED from the evidence base provided to date.

HED consider the suggested amendments will enable the draft policies to become sound.

➤ **Policy HE06 - Historic Parks, Gardens and Demesnes**

Policy – Within the second bullet point HED consider the referral to “**views to, from and within, the Historic Park, Garden or Demesne**” is unsound as it is focused on the visual appearance only, and fails to enable consideration of the original design concept and character.

HED suggested correction:

- “**The development would not adversely impact on the overall quality, understanding, experience and enjoyment of the Historic Park, Garden or Demesne.**”

Policy HE07 – Local Landscape Policy Areas (LLPAs)

HED consider the opening sentence of the policy fails the **Consistency test (C3)**. The policy must be made sound.

HED consider the draft policy and its clarification text, in its current form, it **not sound**. It does not take sufficient account of **SPPS**, notably **6.29**.

➤ **Policy HE07 – Local Landscape Policy Area**

Within the second bullet point HED consider the referral to “**visual amenity**”, this is not sound as it is focused on the visual appearance only.

HED suggested correction: ‘...**they do not adversely impact on their intrinsic landscape character, amenity value, and environmental and historic significance.**’

➤ **Policy HE07 – Policy Clarification**

Item 5.25 – HED must advise that item 5.25 is unsound and should be removed in order to make the policy clarification text sound. There is no policy basis for this statement, and the concept of utilising LLPAs as buffers in this way demonstrates a lack of understanding of the aims of strategic policy in SPPS 6.29 and of the purpose of LLPAs.

HED suggested correction: item 5.25 in its current form is to be omitted.

Policy HE08 – Enabling Development including its **Policy Clarification** text.

HED consider the opening sentence of the policy fails the **Consistency test (C3)**. The policy is not sound.

HED consider the draft policy and its clarification text, in its current form, it not sound. It does not take sufficient account of **SPPS**, notably **5.9, 5.16, 6.25** and **6.26**.

➤ **Policy HE08 – Enabling Development**

Policy – HED consider this current text of the policy is unsound and fails to take sufficient account of SPPS and does not clearly define that Enabling Development is specifically attributed to the conservation and re-use of a heritage asset.

In addition, the use of the word **future**, e.g. “**secure the future conservation**”, is open to misinterpretation as it has potential to leave the conservation of the heritage asset open ended, i.e. with no time limit for when the works are to be completed.

HED suggested correction: **‘The Council will only permit ‘Enabling Development’ relating to the conservation, refurbishment and re-use of a Heritage Asset in exceptional circumstances where it will not materially harm its heritage value or setting. It must be demonstrated through a Statement of Justification that all the following criteria will be meet:**

- **It will not materially harm the heritage values of the place or its setting;**
- **It avoids detrimental fragmentation of management of the place;**
- **It will secure the long-term future of the place and, where applicable, its continued use for a sympathetic purpose;**
- **It is necessary to resolve problems arising from the inherent needs of the place, rather than the circumstances of the present owner, or the purchase price paid;**
- **Sufficient subsidy is not available from any other source;**
- **It is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the heritage asset;**
- **The impact of the enabling development is precisely defined at the outset;**
and
- **The public benefit of securing the future of the heritage asset through such enabling development decisively outweighs the dis-benefits of departing from the normal policy presumption of the local development plan.**

➤ **Policy HE08 – Policy clarification**

Item 5.28 – HED consider the bullet points under this item must be provided into the policy text to ensure a sound policy and therefore removed from item 5.28. (See suggested correction to policy HE08 for further details).

Item 5.29 – HED consider the first sentence of this item must be expanded to enable the council to bring in outside expert advice, should the expertise not be within the council, to consider the any financial evidence submitted within Statement of Justification.

HED suggested correction: ‘...detailed financial information as is necessary to allow scrutiny by the Council with its economists, to make an informed decision upon the application...’

HED suggested additional and/or correction text for inclusion:

New item – We suggest that the council refer to the legislative requirement for a Listed Building Consent application for any works to listed building that would affect its character as a building of special architectural or historic interest and/or; for Scheduled Monument Consent for works to scheduled monuments. (See our comments in relation to the archaeology policy. Cross reference to the archaeology policies would be appropriate).

Policy HE09 – Change of Use, Conversion or re-use of an Unlisted Locally Important Building or Vernacular building including its Policy Clarification text.

HED consider the opening sentence of the policy fails the **Consistency test (C1 and C3)**. The policy is not sound.

HED consider the draft policy and its clarification text, in its current form, it **not sound**. It does not take sufficient account of **RDS RG11**, notably **3.30** and **SPPS**, notably **4.26, 5.9, 5.16, 6.24** and **6.67**.

➤ **Policy HE09 – Change of use, Conversion or re-use of an Unlisted Locally Important Building or Vernacular Building**

Policy – HED consider this current text of the policy is unsound and fails to take sufficient account of the requirement to ensure no significance harm or loss is caused to the non-designated heritage asset.

HED suggested correction: ‘**The change of use, sympathetic conversion or re-use of a unlisted locally important or vernacular building will be encouraged. Proposals will be required to secure its upkeep and retention and ensure no significance harm or loss is caused to the appearance or character of the building and its setting. The following criteria must be meet;**

- **Maintain or enhance the form, character, architectural features and setting of the existing building and not have an adverse effect on the character or appearance of the locality; and**
- **Any new extension, alterations or adoptions are sympathetic to the scale, massing and architectural style of the existing building and its setting.**

Policy HE09 – Policy clarification

HED consider the clarification text does set out what type of development is acceptable in terms of aiding the decision making process or clarifying the policy in taking account of SPPS, notably item 6.24.

HED suggested correction:

'New item – All development proposals for the sympathetic conversion of a locally important and/or vernacular building should involve the minimum of work and should maintain or enhance the existing character of the building and its setting.'

Item 5.33 - HED consider the word 'desirable' does not take sufficient account of the importance such building types contribute to the character of the local character of an area.

HED suggested correction: *'However, outside of the areas, retention of these types of building is encouraged as these heritage assets represent a continued understanding of the history of our district at a local level.'*

2.0 – Development and Design

Policy DE08 – Advertisements and the Historic Environment and its Policy Clarification text

HED consider the opening sentence of the policy fails the **Consistency test (C3)** and **Coherence and effectiveness test (CE2)**. The policy is not sound.

HED consider the policy to be unclear as it does not take sufficient account of **SPPS** notably **4.26, 6.14, 6.20, 6.23, 6.58, 6.59** and **6.60**, and representations made by HED from the evidence base provided to date.

➤ **Policy DE08 – Advertisements and the Historic Environment**

Policy – the opening statement of the policy in its current form does not acknowledge or cater for the hierarchy tiers between listed buildings, conservation areas as clearly expressed in SPPS. Nor does this policy acknowledge the requirement to control advertisements in Areas of Townscape Character as clearly expressed in the SPPS.

HED suggested corrections:

“The council will only give consent for the display on advertisements or signs on heritage assets or affecting the setting of heritage assets when the following criteria are met:

- a) Signage to a listed building must be carefully designed and located so as to respect the architectural form and detailing of the building;**
- b) Signage in a conservation area will not adversely affect the overall character, appearance or setting of the area;**
- c) Signage in an area of townscape character must maintain the overall character and built form of the area;**
- d) Where it is physically affixed to an asset, it does not cause irreparable damage to the asset and is reversible; and**
- e) Would not be detrimental to public safety”**

➤ **Policy DE08 – Policy clarification**

Item 2.29 – HED consider the Clarification text is unsound, as it does not assist in clarifying the meaning of the policy or the decision making process. In its current form the text does not acknowledge or cater for the hierarchy tiers between listed buildings, conservation areas or the requirement to control advertisements in Areas of Townscape Character as clearly expressed in the SPPS.

In addition, HED strongly advise that reference to advertisement guidance is removed with regard to reference to Listed Buildings and/or State Care and Scheduled Monuments and that a line inserted that states that guidance as to what may be required for applications related them or its setting can be sought from HED.

HED suggested correction: *Outdoor advertisements can have a significant impact on the integrity of the historic environmentwill not normally be supported where they are affixed or within the setting of a listed building or within the protected area of a scheduled monument or State Care monument. Additional guidance on the display of Advertisements on Listed Buildings and/or State Care Monuments and Scheduled Monuments can be obtained from HED.*

HED suggest the following corrections and/or additional text to make the clarification text to take sufficient account of the evidence base, notably SPPS and PPS6 for considering advertisement to a listed building:

New item – Many heritage assets are in commercial use and already display signs or advertisements of some sort. These in themselves may be of historic interest or of some artistic quality, and where this is the case the council will not normally permit their removal or significant alteration

New item – Advertisements and/or signage should be designed to complement the age and architectural style of the building. They should also be carefully located and should not obscure, overlap or cut into any architectural detailing or structural divisions of the building.

Projecting signs can often adversely affect the appearance and character of heritage assets and will therefore require very careful consideration. Where their presence is considered acceptable particular attention will be paid to size, design and materials. Signage on upper floors of buildings will not normally be acceptable.

New item – In most situations signs and advertisements displayed on listed buildings should not be illuminated. Where illumination is justified it should be achieved unobtrusively.

Council may feel it prudent to provided comments that in the hierarchy tier, works to listed buildings must 'protect, conserve and where possible enhance', works within CAs must 'enhance or preserve' whereas works within ATCs must 'maintain and enhance'.

HED suggested additional and/or correction text for inclusion:

New item – Council refer to the legislative requirement for a Listed Building Consent application for any works to listed building would affect its character as a building of

special architectural or historic interest and/or; Scheduled Monument Consent requirements (cross reference to our suggested clarification on the archaeology policies would be appropriate)

3.0 – People and Places

Policy HOU09 – Rural replacement Dwellings and its Policy Clarification text

HED advise the policy is not consistent with **Consistency test (C3)** and the **Coherence and effectiveness test (CE2)**. The policy is not sound.

HED consider the policy to be unclear as it does not take sufficient account of **RDS RG11** notably **3.30** and **SPPS**, notably **6.24** and **6.73** (bullet points).

➤ **HOU09 – Rural replacement Dwellings**

Policy – For consistency the draft policy text should include ‘item a)’ from draft policy HOU10.

HED suggested correction: **“The existing building is not suitable for conversion under policy HE09”**

➤ **Policy HOU09 – Policy clarification**

Item 3.37 – The retention of unlisted vernacular dwellings is established under HE09. This item could be omitted as it could be considered in conflict or create confusion with draft policy HE09 (unlisted vernacular dwellings).

HED suggested correction: item 3.37 in its current form is to be omitted.

Item 3.38 – HED consider that for consistency it would be prudent to remove the word *curtilage* as it has no exact legal definition, and could therefore, lead to confusion. In addition, HED advise caution in using the term ‘*non-listed vernacular*’ in this policy context and the potential it may have to cause confusion with draft policy HE09.

HED suggested correction: *‘These may also include a small-scale extension to the existing defined boundary to enable the retention and incorporation of an existing dwelling into a replacement scheme...’*

Item 3.39 – HED consider to make this item more meaningful additional text must be provided in the clarification text to indicate what evidence should be submitted to aid the policy intention the requirement to demonstrate the a dwelling cannot be adapted due to structural instability.

HED suggested correction: *This includes conservation architects, building surveyors or engineers. Structural issues will not be given substantive weight when making a case for replacement where these have arisen due to neglect of a building through lack of maintenance or failure to secure it by the current or previous owners. Evidence will be required to indicate alternative options for stabilisation of the existing structure have been considered in efforts to retain the building.*

Item 3.41 – This item is incorrect. HED consider this item should be removed – see comments above around curtilage under item 3.38 above.
HED suggested correction: item 3.41 in its current form is to be omitted.

Policy HOU10 – Replacement of Other Rural Buildings

HED advise the policy is not consistent with **Consistency test (C3)** and the **Coherence and effectiveness test (CE2)**. The policy is not sound.

HED consider the policy to be unclear as it does not take sufficient account of **SPPS** notably **6.67**, **6.69** and **6.73** (bullet points) and representations made by HED from the evidence base provided to date.

➤ **Policy HOU10 – Replacement of Other Rural Buildings**

Policy – HED consider the opening statement is too loose and would allow an applicant/developer to ‘cherry pick’ the items ‘a) to f)’, we have notable concerns around the wording of items ‘d)’. Under the current wording all an applicant/developer has to do is to provide a ‘service’ (as defined in the clarification text) to the site to enable a replacement to be supported.

HED suggested correction: **“The council will support the replacement of an intact redundant, non-residential building with a dwelling where all the following criteria are met:”**

Policy item c) - HED consider this section of policy text can be omitted as it is covered by item ‘a)’ of the draft policy.

Policy item d) - HED consider this item should be omitted.

Policy item f) - See comments around curtilage above under item 3.38 above.

HED suggested correction: ***It is located within the existing defined boundary of the building to be replaced***

Policy HOU11 – Redevelopment of a former site for dwelling

HED advise the policy is not consistent with **Consistency test (C3)**. The policy is not sound.

HED consider the policy to be unclear as it does not take sufficient account of **RDS**, notably **2.10**, bullet point 6 (protect and enhance the environment for its own sake) and **SPPS** notably **3.3** (third bullet), **3.5**, **3.6**, **3.9** and **6.73** (bullet points).

➤ **Policy HOU11 – Redevelopment of a former site for dwelling**

HED consider the clear intention of this policy is not evident. Is it proposed to enable sites which have had previous planning approval but not enacted (expired), or to allow established historic vernacular sites, long abandoned, to be

HED suggest this policy could be omitted as its criteria are either already met within draft policies HE09, HOU08, HOU09 and HOU10 or it will create at least confusion or be used in direct conflict with these policies.

HED has concerns around the wording of this policy as by its current wording policy; Item 'b)' may lead to pre-emptive removal of mature boundaries; Item 'c)' in the policy reduces the need for all structural walls to be intact. This is in direct conflict with draft policy HOU09 and we consider could lead to confusion; and Item 'd)' could lead to pre-emptive laying of services, for example, in advance of applying for planning permission.

We are also concerned this policy (HOU11) could lead to removal of historic ruined farmsteads of varying periods.

Policy (editorial) – HED suggest there may be an editorial error in the opening line of the policy text to ensure consistency with the policy title.

HED suggested correction: **'The Council will support the redevelopment of a former site for a dwelling where all the following...'**

4.0 – Economy

Policy TOU02 – Tourism Development

HED consider the opening sentence of the policy fails the **Procedural Test (P3)**, **Consistency test (C1 and C3)** **Coherence and effectiveness test (CE2)**. The policy is not sound.

HED consider the draft policy and its clarification text, in its current form, it not sound. It does not take sufficient account of **RDS RG11**, notably **3.30**, and **SPPS**, notably **3.9**, **3.101** (fifth bullet point), **6.9**, **6.10**, **6.12**, **6.16**, **6.18**, **6.21**, **6.24**, **6.67**, **6.69** and **6.73**.

➤ Policy TOU02 – Tourism Development

Policy item a) – HED has major concern regarding policy item 'b)' and the potential it has to have a detrimental impact to heritage assets and its setting, especially as the term 'tourism hub' definition is so wide ranging as defined in the glossary. At present this item would allow a development (in line with the policy heading) to be sought in locations which would otherwise be deemed inappropriate under other draft policies. This is practically concerning as at present the draft policies around heritage assets do not account for proposals impacting the setting of heritage assets. (See HED comments within the Historic Environment section of this response).

HED suggested correction: **"New Item) Where tourism development is being sought due to association with a heritage asset any proposal must be in line with the appropriate Historic Environment policy suite and adopt a heritage-led approach."**

Policy TOU04 – Holiday Parks, Touring Caravan and Camping Sites and its Policy Clarification text

HED consider the opening sentence of the policy fails the **Procedural Test (P3)**, **Consistency test (C1 and C3)** **Coherence and effectiveness test (CE2)**. The policy is not sound.

HED consider the draft policy and its clarification text, in its current form, it not sound. It does not take sufficient account of **RDS RG11**, notably **3.30**, and **SPPS**, notably **3.9**, **3.101** (fifth bullet point), **6.9**, **6.10**, **6.12**, **6.16**, **6.18**, **6.21**, **6.24**, **6.67**, **6.69** and **6.73**.

➤ **Policy TOU04 – Holiday Parks, Touring Caravan and Camping Sites**

Policy item a) – HED has major concern regarding policy item ‘a)’ and the potential it has to have a detrimental impact to heritage assets and its setting, especially as the term ‘tourism hub’ definition is so wide ranging as defined in the glossary. At present this item would allow a development (in line with the policy heading) to be sought in locations which would otherwise be deemed inappropriate under other draft policies. This is practically concerning as at present the draft policies around heritage assets do not account for proposals impacting the setting of heritage assets. (See HED comments within the Historic Environment section of this response).

HED suggested correction: **“New Item) Where tourism development is being sought due to association with a heritage asset any proposal must be in line with the appropriate Historic Environment policy suite and adopt a heritage-led approach.”**

Policy item c) – HED consider this item is against requirements of SPPS in that it proposes the redevelopment, i.e. demolition, of existing buildings. Especially when read in context with the second sentence. In extreme cases this item could be misinterpreted to enable a case to be established to seek the demolition of locally important buildings and/or structures.

HED suggested correction: **“where it proposes the re-use an existing group of vacant buildings...which are a permanent construction within or in close proximity to a tourism hub. Where the existing buildings cannot be re-used any new development must be similar in size and scale to the existing buildings.”**

➤ **Policy TOU4 – Policy Clarification**

Item 4.69 – HED consider this item reads more like a statement of intent, rather than to clarify the policy or aid the decision making process.

HED suggested correction: item 4.69 in its current form is to be omitted.

Policy MIN01 – Mineral Development

HED consider the opening sentence of the policy fails the **Consistency test (C3)**. The policy is not sound.

HED consider the policy to be unclear as is does not take sufficient account of **SPPS** notably **6.152** (second bullet)

➤ **Policy RE01 – Mineral Development**

Policy – HED consider the use of the term ‘unacceptable’ in the opening statement provides a weaker policy test than strategic policy requires, and the word should be removed.

HED suggested alteration: “**The Council will support proposals for minerals development where it is demonstrated that they do not have an unacceptable adverse impact upon:**”

6.0 – Infrastructure

Policy RE01 – Renewable and Low Carbon Energy Generation

HED consider the opening sentence of the policy fails the **Consistency test (C3)**. The policy is not sound.

HED consider the policy to be unclear as it does not take sufficient account of **SPPS** notably **6.219** (second bullet)

➤ **Policy RE01 – Renewable and Low Carbon Energy Generation**

Policy items c) – HED acknowledge the use of the term **built heritage interests**. For consistency across other policies HED recommend this phrasing is changed, e.g. in line with DE02, item c and MIN01, item iii.

HED suggested alteration: “**c) biodiversity, nature conservation or historic environment interests;**

7.0 - Monitoring and Review

HED suggest the draft Plan Strategy needs to have stronger meaningful monitoring indicators to review the impact of the plan. HED has concerns how the means of monitoring the success of the LPD within Table 7 will show how success towards the historic environment has been achieved. HED consider it may be appropriate for monitoring to include, for example:

- (a) Planning decisions which go against consultee advice and/or recommendations throughout the Plan period.
- (b) The number of Scheduled Monument Consents related to planning applications;
- (c) Monitoring of number of permissions with archaeological conditions across the district;
- (d) Monitoring of applications in the AAP to which archaeological conditions applied;
- (e) The number of Conservation Areas and/or Areas of Townscape Character designated or removed; and
- (f) The number of non-designated heritage (in CA, ATC or the countryside) assets re-used/enhanced, demolished or replaced.

Glossary

HED advise that the section is not consistent with **Coherence and effectiveness test (CE3)** needs to be more sound.

HED consider the definition of the below terms are too narrow and not in line with **SPPS**. This is problematic and could lead to adverse effects through narrow implementation of policy. In order to increase soundness HED recommend a clearer definition which better reflects the intentions of SPPS, the intended application of policy within the Plan Strategy and consistency of term use within the Plan Strategy.

HED suggested insertion: (new item) Areas of Archaeological Potential – Areas within settlement limits where on the basis of current knowledge it is likely that archaeological remains will be encountered in the course of continuing development and change. An historic environment record, these are identified in the plan for information for prospective developers.

HED suggested correction: Areas of Significant Archaeological Interest – Areas of particularly distinctive historic landscape. They contain a number of individual and related sites and monuments and may be distinguished by their landscape character and topography. They are designated through the plan.

HED suggested correction: Conservation Area – An area of special or historic interest where it is desirable to enhance or preserve

HED suggested correction: Enabling development – Enabling Development is a development....optimum viable use of a heritage asset where this greater than its value to its owner or market value.

HED suggested correction: Heritage Asset – A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest.

HED suggested correction: Historic Environment – All aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora.

HED suggested correction: Listed Building – A listed building is a structure which the Department for Communities has included in a statutory list of buildings of special architectural and/or historic Interest.

HED suggested correction: Setting – The surrounding in which a heritage asset is understood, seen, experienced and enjoyed. Its extent is not fixed and may change.....and transcend the curtilage of buildings and modern property boundaries. ~~In addition, setting is not defined.....immediate area around a listed building.~~ Settings of heritage assets can also overlap and as such there may be a need for a cumulative assessment.

(Continue on a separate sheet if necessary)

Modifications

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

See our comments within the 'Details' section (question) above for suggested corrections to make the draft Plan Strategy sound.

(Continue on a separate sheet if necessary)

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

- Written Representations** **Oral Hearing**

Please note: Where there is dispute with regard to any of our representations we will be prepared to present at the public hearing event(s).

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

The questionnaire has been filled in on behalf of a Government Department.

9. Dependants

Please tell us about your caring responsibilities. This can mean looking after a child, whether as a parent, guardian or foster parent, or by helping an adult carry out their daily routine. This might mean providing assistance to an adult relative or friend who is disabled or has a long-term illness.

- I look after children
- I help an adult with their daily routine
- I look after children and help an adult with their daily routine
- Not applicable

10. Frequency of caring responsibilities

If you have caring responsibilities, please indicate how often you undertake these responsibilities

- Daily
- Frequently
- Occasionally

The questionnaire has been filled in on behalf of a Government Department.